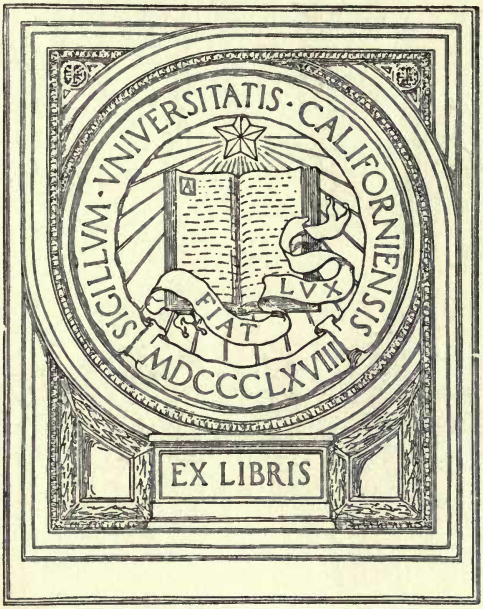

NAVAL.

A BRIEF HISTORY

OF

AN EXISTING CONTROVERSY

ON THE SUBJECT OF

ASSIMILATED RANK

IN THE

NAVY OF THE UNITED STATES.

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Wm Rogers Taylor.
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RANK, PRECEDENCE, AND COMMAND.

At the present time the subject of the rank and precedence which exist, or should exist, among the officers of different vocations employed in the military service of the country, is interesting to all in the army and navy of the United States. Gentlemen of intelligence have directed attention to the different questions involved, and entertain opposite opinions upon many points. It is desirable that these differences of opinion should be set at rest; while they are agitated, they lead, perhaps, to unkindness of feeling, for which there is really no occasion. It seems to be generally agreed that these differences should be fairly presented and referred to the National Legislature for consideration and decision. It is presumed all are desirous of a decision which will be in accordance with the interests of the country, and justice to individuals; and it is hoped no one seeks peculiar advantage or favour to the injury of his associates in the public service.

The writer designs to present his views on the subject in connexion with the navy, of which he is an humble member. Whether erroneous or true, his opinions are honestly entertained, and he hopes his expression of them will prove inoffensive. His remarks will be based on pamphlets which have been circulated among members of Congress, entitled as follows:—

No. 1. *Remarks on Relative Rank in the Navy.* 8vo. pp. 8. (Attributed to a justly esteemed and accomplished commander.)

No. 2. *Assimilated Rank in the Navy. A reply to an Appeal by Ninian Pinkney, Surgeon U. S. N., to the Congress of the United States, relative to the rank of Surgeons and Pursers.*

By a junior sea-officer. 8vo. pp. 8. (Attributed to a passed-midshipman.)

The following extract from the proceedings of Congress, as reported in the "National Intelligencer," will be considered first:*

THURSDAY, JULY 18, 1850.

Mr. EVANS, of Maryland, from the committee on Military Affairs, reported the following resolution, which was agreed to:

Resolved, That the President of the United States be and he is hereby requested to communicate to this House his views of the rules and regulations which should be established by law upon the following subjects, viz.:

The gradations of *rank* for the officers and non-commissioned officers of the military staff and the line of the army.

The order of succession to *command* among the officers and non-commissioned officers of the army.

The order of *precedence* between the officers of the non-military staff of the army and the officers of the army having staff or lineal rank.

The extent to which officers and non-commissioned officers of the staff in the army shall be subject to the *command* of officers and non-commissioned officers of the line of the army.

The gradations of *rank* for the sea officers and petty officers of the navy.

The order of precedence between the sea officers and the engineers and civil officers of the navy.

The extent to which the civil officers and engineers of the navy shall be subject to the command of the sea officers of the navy.

The relative *rank* of the officers of the army and of the navy.

The order of *precedence* between the non-military staff officers of the army and the engineers and civil officers of the navy.

Precision, in the use of terms, is essential to perspicuity; no law can be explicit, if stated in words of uncertain meaning. The language of the resolution quoted above seems to the writer defective in this respect. But as these

* The following appeared in the "North American and United States Gazette," Philadelphia, August 2, 1850. It is, in part, the cause of printing the present observations.

HOUSE OF REPRESENTATIVES OF THE U. S.
August 1, 1850.

To the Editors of the North American and U. S. Gazette:—Gentlemen—In your paper of Monday, a correspondent, "R," in an article expressed in good temper, makes some remarks upon a resolution passed by the House of Representatives of the United States, upon my motion.

He appears to think the part relating to the naval service not altogether precise; though he acknowledges that it may seem hypercriticism to say so.

I have taken pains to make the resolution specific; and I send you a copy, in order that it may be criticised by the profession.

I invite comment upon it *before* action by the President of the United States; as by that action I desire all questions of rank, command and precedence, to be finally settled.

Very respectfully,

ALEXANDER EVANS.

terms are commonly employed by officers in the navy, Mr. Evans cannot be held justly amenable for their use; nevertheless, in the opinion of the writer, they are erroneous.

The term "*sea officers*," it is presumed, means officers of the line in the navy; all officers who serve at sea in the navy might be designated as "sea officers," without violating the use of language.

The term "*petty officers*" is used in the navy to designate those who are selected, from amongst the ship's crew, to serve as boatswains', gunners', carpenters', and sail-makers' mates; captains of tops, quartermasters, quarter-gunners, &c., &c. Their appointments exist only during the continuance of the cruise, and are frequently revoked by the commander for misbehaviour; the petty officers thus "dis-rated" are stationed among the seamen, and are not otherwise distinguished from the rest of the crew. "*Petty officers*" in the navy, in a degree, correspond with the "non-commissioned officers" in the army: they have neither commissions nor warrants; their appointments are not permanent, but depend upon period of enlistment, and pleasure of the captain.

The class of "*warrant officers*" includes masters, midshipmen and passed-midshipmen, boatswains, gunners, carpenters, sail-makers, and masters' mates.

The term "*forward officers*," embraces boatswains, gunners, carpenters, sail-makers, masters' mates, &c. It might be a question whether the term "petty officers," used in the resolution, is designed to apply exclusively to the grades of "warrant officers" last named, or whether it is designed to include all officers of every description, except "commission-officers." The exact object of this part of the resolution is not made clear, by reference to the legal definition of the term "petty officers." The law says, "All officers, not holding commissions or warrants, or who are not entitled to them, except such as are temporarily appointed to the duties of a commissioned or warrant officer, are deemed petty officers."*

The term "civil" cannot be very properly applied to any grade or grades of officers, included in a military organization, and subject to military laws and military tribunals. The term "civil" is more legitimately applied to officers of a

* An act for the better government of the Navy. Sec. 1, Art. 33. Approved April 23, 1800.

civil government, including the various officials appointed for the administration of civil laws, such as judges, marshals, sheriffs, constables, &c. The only officers connected with the navy, to whom the term "civil" may be legitimately applied, are those who are not amenable to military laws and courts; including navy agents, naval storekeepers, &c.

From the position of the word "engineers" in the resolution, it may be inferred that its author did not regard them as belonging either to the class of "sea officers" or to the class of "civil officers." Yet it may be suggested that officers who manage the machinery of a steamer at sea, may be designated "sea officers" with as much propriety, in the common use of language, as those officers who manage the machinery of a sailing ship.

To illustrate the importance of the precise use of language in legislation, the following sentences are quoted from a printed pamphlet, addressed by Commander L. M. Goldsborough, to the Secretary of the Navy, (Hon. J. Y. Mason,) Washington City, January 27, 1848, on the question of assimilated rank. "In the Act of February 7, 1815, the President is authorized to create a Board of Commissioners, to be constituted of three officers of the navy, whose *rank* shall not be below a post captain. Does not this carry with it the necessary implication that rank has already been fixed, and has become a matter of legal right?" A negative answer to the question was maintained in the following terms:

"It is suggested that legislators are not all skilled in philology, and do not always use such words as will best convey their meaning. The design and purpose of this portion of the Act would have been attained, and as clearly understood, had the framer of the law substituted the word *grade* for the word *rank*, which words are not exactly synonymous in their acceptation. If the Act had read, 'the Board shall consist of three officers of the Navy, whose *grade* shall not be below a post captain,' what effect would it have had on the constitution of said Board? and what would have been its effect on the argument of our opponents? If we were to say the military branch of the navy [the line of the navy] is composed of three *grades* or *degrees*, namely, the *grade* of captains, the *grade* of commanders, and the *grade* of lieutenants, and that the officers of these respective grades *ranked*, that is, were placed in order, or arrangement, or precedence, with each other, according to number or date of commission, and that the *grade* of captains *ranked* before the *grade* of commanders, and the latter *ranked* before the *grade* of lieutenants, we should be clearly understood.

"As the intention of the law is not varied by the substitution of a word, it cannot be inevitably inferred that *rank* was fixed by law, as the term is

understood by our opponents. We might even suppose the word *class* substituted for *rank* in the law, and still perceive that the intention of the Act could not be misconstrued, namely, that the Board would be constituted of three post captains; consequently, although we contend that the Executive has a constitutional right to declare that surgeons and pursers shall have *assimilated rank* with post captains, it would not follow that he could legally regard surgeons and pursers as members of the *grade* or *class* of captains, and therefore be authorized to substitute surgeons and pursers for captains, as Navy Commissioners. The premises are false—such argument is absurd."

It may be urged in reply, that the above is a merely verbal hypercriticism, because the terms are understood in the navy. But it may also be rejoined that these terms do not carry the same uniform meaning to all persons in the navy; and for this reason they lead to erroneous inferences as to the intent of law, and give rise to useless discussions, differences, disagreements, and even contests. It is desirable that in legislation, synonymous terms should be avoided; as far as practicable, only exactly defined words should be employed in stating a law. A word or term always represents an idea; if the term is false in its application, it will give rise to erroneous impressions.

The language of the resolution, which applies to the several classes in the army, is quite precise. The reason for this difference of precision in the use of terms, which may be considered technical, is, that there is really no systematic arrangement of the grades of officers of the navy into classes, in accordance with the nature of their respective functions. If such an arrangement were devised, it would probably be found there would be no proper use for the terms "sea officers" and "civil officers;" that all officers included in the naval organization would be embraced, as in the case of the army, in the two grand divisions of *officers of the line*, and officers of the *staff corps*, which would comprise the corps of medical officers, chaplains, pursers, engineers, &c., &c.

MILITARY TERMS.

In this connexion, it may be entertaining if not instructive to define some of the terms used by writers on military subjects.

An Army, is a body of men armed and trained to fight the enemies of the country on land, either in defence or aggression.

A Navy, is a body of men armed and trained in ships to fight the enemy on the seas.

Military Men.—All men who are necessary to complete a military organization, whether for an army or navy, are military men, because they are governed by military laws. The military character of men of an army or navy, is not dependent upon the nature of their duties; but grows out of the military manner or fashion according to which their duties are performed. In an army or navy, every man acts according to military regulation; he eats, drinks, sleeps, dresses, and moves his body; he takes medicine even, submits to surgical treatment when necessary; worships God, dies and is buried, all according to military rule. A military spirit and manner extend through every department and ramification of every well-constituted military community, of which no member can be, correctly speaking, a civil officer, or civilian. The 60th article of war provides that "all persons whatsoever, serving with the armies of the United States in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war."

Military Law.—A rule established by the Legislature to govern members of the military organizations of the country.

Martial Law.—Is no law, but the arbitrary exercise of power by military men over citizens without regard to civil laws, either statute or common. There is a wide distinction drawn between military law and martial law. There are times when public danger warrants a resort to rigorous and summary methods not recognised in civil law; and then military chiefs are sustained in suspending the operation of civil law and substituting their own will, and arbitrary enactments for it.

Military Command.—A right to enforce obedience is necessary to constitute legal authority, civil or military, to direct the actions of others. *Military command* consists essentially in a legal right to exact obedience, under the penalties provided by military laws. In this view, any act whatever, the performance of which can be rightfully compelled by military law, is a military act: washing, cooking, sweeping, scrubbing, horse-shoeing, surveying land, building houses, erecting forts, are as much *military* acts, when their performance can be enforced by military laws, as charging and firing cannons or muskets in the face of an enemy. Splicing a rope, washing

decks, and painting, setting and taking in sail, are daily acts both in merchant vessels and ships-of-war; on board the former, they are *civil* acts, because the order or command to execute them is sustained only by the civil law; but on board of the latter, it can be enforced only by military law, and thus commonplace acts of civil life are converted into military duties and performances. In this sense, *military* command and *naval* command are synonymous, although the former term by custom is commonly restricted to an army on shore, the military character of the navy not being generally perceived. In common parlance, the navy is not included as a branch of "the military profession;" nevertheless, it is essentially a military service, and should be so considered always by legislators.

Military Discipline.—The practical observance of the requirements of military laws, rules, and regulations; and this implies a prompt obedience of the lawful commands of superiors in authority, and due respect to all, according to their grade and rank. *To discipline*—to train or educate members of a military community to the practical observance of military laws, rules, and regulations.

Rank.—A line of men placed abreast.

"Fierce, fiery warriors fight upon the clouds,
In *ranks* and squadrons, and right form of war."

"I have seen the cannon
When it has blown his *ranks* into the air."

SHAKSPEARE.

"But with a pace more sober and more slow,
And twenty, *rank* in *rank*, they rode a-row."

DRYDEN.

A row, a range of subordination; class, order; degree of dignity, eminence, or excellence; dignity, high place: *he is a man of rank. To Rank.*—To place abreast; to range in a particular class; to arrange methodically; to be ranged, to be placed; to take precedence of in a range of subordination. *Grade*, a degree, a step; in military parlance, those whose commissions are of the same tenor constitute a *grade*, as the grade of captains, the *grade* of lieutenants, the *grade* of surgeons, the *grade* of engineers, &c. The word *rank* is frequently used synonymously with the word *grade;* but the propriety of the practice is questionable.

Some few *line* officers entertain exaggerated, indefinite no-

tions of *rank*, resembling somewhat the ancient Sandwich Island conception of the "taboo," to infringe which was to peril life and soul. "I hold my rank dearer than life itself," said a respectable lieutenant, "and were any purser in the navy to offer to sign an official report above me, I would cleave him to the chin with my cutlass. I could never suffer *my rank* to be outraged in that way; I would rather die."

Those who view rank as something sacred, as a little household god, whose shrine is self, may be admired for the poetic, one might venture to say, Quixotic, devotion they pay it; but in this view, like the "taboo" of the savage, it is an illusion which should be dispelled. The term rank, has a definite signification in military language.

Rank is the relative position of the members of a military community to each other; it means nothing more nor less.

It should be carefully borne in mind that *rank* and *command*, that is, authority to command are not synonymous terms. When an officer is placed under arrest for trial, he is deprived of his *authority to command*, but his *rank*, that is, his relative position, is not affected.

The efficient existence of the army or navy, is derived from two distinct sources. Congress creates the grades of officers and privates, but the authority to command them is reserved, by the Constitution, to the President of the United States, who is commander-in-chief of the land and sea forces. An officer, therefore, depends on Congress for his grade and rank; and on the President for authority to command or obey; his rank being merely the measure of the quantity or amount of power to command which the President may properly give him. An officer, while on furlough or leave of absence, has no authority to command; the force of his commission is dormant until brought into activity by command or order of the Executive: but his *rank* is not affected. If *rank* and *grade* alone conferred a right to command, the senior captain in the navy could control the whole service, and be able to *veto* and frustrate the commands of the Secretary of the Navy.

The *line of an army* consists of a body of men whose essential duty is *to fight* the enemy on land.

The *line of a navy* consists of a body of men whose essential duty is *to fight* the enemy on the sea.

Lineal rank is the relative position of the members of the *line of an army, or navy.*

Full lineal rank.—Lineal rank may be restricted to one

branch of the line, to the cavalry, to the artillery, or to the infantry, but when it determines the relative position of an officer equally in all branches of the line, it is termed *full lineal rank.*

Staff is literally a stick, or support. The term is used to designate any body of officers permanently charged with specific and peculiar duties which bear upon the condition, or rather upon the successful operation of the army in general. The *Etat-Major* of the French, or *Staff* of the English, is a modern invention, and had its origin in the necessity, which experience taught, of bestowing a minute and undivided attention upon certain objects which are intimately connected with military success.* The importance of military *reconnaissances*, and of the selection of sites for encampments, &c., gave birth to the corps of military surveyors, entitled the corps of topographical engineers; from the great importance of properly constructed forts, redoubts, bridges, &c., sprang the corps of military architects, named the corps of engineers, including companies of engineer-soldiers or sappers, miners, and pontonniers, who are, in fact, *labouring* military mechanics of the engineer corps. In a word, the invention of determinate staff corps was merely extending into military operations, the system of division of vocations and employments, which has happily and beneficially influenced the various arts and, consequently, the condition of society under the control of civil law. Why this system, which is successful in civil life, and in the army, should not be extended by law into the navy, is a question not easy to answer.

Staff Duties.—The physical wants of the line of an army are to be provided for; its members must be fed, clothed, paid, and when sick or wounded, taken care of; they must have barracks, tents, teams, and means of transportation; arms and ammunition; fortifications are to be built and surveys to be made, &c. The persons who discharge the duties connected with these various matters must be subject to military laws and regulations. They are arranged into corps, and are termed staff corps, because they are essential to the existence of the line, and their duties are named staff duties, none of which belong strictly to *line* command.

The following table exhibits the names of the several staff

* Dumas. Précis des Evénemens Militaires. Tome II., p. 430. Paris, 1817.

corps of the army of the United States, and the number of commissioned officers in each, *November* 28, 1849.

STAFF OF THE ARMY.

		Commissioned officers.
General Staff.	Adjutant-General's Department,	14
	Inspector-General's Department,	2
	Judge-Advocate of the Army,	1
	Quartermaster-General's Department,	43
	Commissary-General's Department,	8
	Medical Department,	95
	Pay Department,	28
Corps of Engineers,		43
Corps of Topographical Engineers,		36
Ordnance Department,		37
		307
Military Store-keepers,		17
		324

LINE OF THE ARMY.

2 Regiments of Dragoons,		70
1 "	Mounted Riflemen,	35
4 "	Artillery,	208
8 "	Infantry,	272
		585

The *officiality* of the army, after deducting 25 who hold commissions both in the *staff* and in the *line*, and also the 17 military store-keepers, consists of 870 officers, of whom very nearly one-third belong exclusively to the staff. This fact shows the importance of the staff to the army; without it, the *line* would be worthless.

The *Adjutant-General's Department* embraces the detail of officers, roster of service, records of enlistments and discharges of men, of the distribution of the army, &c. This staff corps consists of 1 Adjutant-General, 1 Assistant Adjutant-General (Lieut. Colonel), 4 Assistant Adjutants-General (Majors by brevet), 8 Assistant Adjutants-General (Captains by brevet).

The duties of the *Inspector-General's Department* are con-

fined to the examination and inspection of the official conduct of the army.

The *Judge-Advocate* is the military law officer of the army.

The *Quartermaster-General's Department* has in charge all that relates to clothing, equipment, quarters, transportation, &c., of troops in garrison or in the field. This staff corps consists of 1 Quartermaster-General, 2 Assistant Quartermasters-General, 2 Deputy Quartermasters-General, 7 Quartermasters, and 31 Assistant Quartermasters.

The *Commissary-General's Department* is charged with all that relates to supplying subsistence to the army. The corps consists of 1 Commissary-General, 1 Assistant Commissary-General, 2 Commissaries (Majors), 4 Commissaries (Captains).

The *Medical Department* is charged with all that relates to medicine and surgery in the army. This staff corps consists of 1 Surgeon-General, 22 Surgeons (Majors), and 72 Assistant Surgeons (Captains and First Lieutenants).

The *Pay Department* is charged with paying the troops. This staff corps consists of 1 Paymaster-General, 2 Deputy Paymasters-General, 25 Paymasters (Majors).

The *Corps of Engineers* is charged with the construction of forts, barracks, &c. They are, in fact, *military architects.* This staff corps consists of 1 Colonel, 2 Lieutenant-Colonels, 4 Majors, 12 Captains, 12 First and 12 Second Lieutenants.

The *Corps of Topographical Engineers* has charge of all surveys. Its members are *land and harbour surveyors, for military purposes.* This corps consists of 1 Colonel, 1 Lieutenant-Colonel, 4 Majors, 10 Captains, 10 First and 10 Second Lieutenants.

The *Ordnance Department* has charge of all that relates to the supply and preservation of arms and ammunition, arsenals, magazines, &c. This corps consists of 1 Colonel, 1 Lieutenant-Colonel, 4 Majors, 13 Captains, 12 First, and 6 Second Lieutenants.

As there are several grades in each of these staff-corps, and a range of subordination in each, the relative position of their members respectively is designated by rank, as in the line.

Staff-rank is the relative position of members of a staff-corps to each other; but *staff-rank* in one corps does not necessarily designate the relative position of the officer to members of other staff-corps, or to officers of the line.

Assimilated rank is the relative position of members of staff corps to officers of the line, and to officers of different staff-corps.

As authority to command is not inherent to rank of any description, but originates exclusively from the instructions or orders of the Commander-in-chief of the army, that is, the President, assimilated rank cannot confer a right to command in the line. A colonel of engineers cannot command a major in the line, nor a medical officer, who may be a major or captain in assimilated rank.

Consuls enjoy assimilated rank as captains in the navy; but the possession of this kind of rank does not confer upon them any right to command junior captains, commanders or lieutenants; nor have those officers in the navy any right to command a consul. But it serves to regulate points of etiquette, precedence, &c., on occasions of ceremony between consuls and officers of the navy on foreign stations.

The effect of assimilated rank may require further illustration. A captain in the line commands a company, every member of which is bound to obey his orders: without such obedience, the functions of the office of captain in the line could not be performed. An assistant-surgeon, who has assimilated rank as a captain, has no authority in virtue of his assimilated rank to command in the line: he cannot act as captain and direct the duties of the company under any circumstances whatever; not being of the military profession, technically speaking, not in the line of succession in the grade of captains by the rule of seniority, or any other rule, he can never occupy a position to discharge the official duties of a captain. The right of the medical officer to command is limited to the immediate control and direction of those of the company who are in need of medical attention, and such persons are bound to obey him; and he is properly responsible for all that relates to the care and management of the sick and wounded of the company, as well as the attendants upon them. From the nature of the case, he must have this degree of authority in order to discharge the duties of medical officer, and therefore his official commission confers it upon him. His assimilated rank adds nothing to the measure of his authority, which he derives exclusively from his commission. But his assimilated rank, as a captain, entitles him, in his official and social relations with mem-

bers of the military community, to receive the same signs of respect, which are conventional, as a captain in the line; and on occasions of ceremony, such as military reviews, parades, marches, funerals, &c., and also, when serving as a member of a military council, or as a member of a board of survey, or a military court, his assimilated rank entitles him to take a place among those of the grade of captains, which is determined by the dates of their several commissions as captains, the earliest date taking precedence. Assimilated rank, no matter how high a grade it may attain, does not confer authority to command those possessing *lineal* rank in any grade, not even in the lowest; but those of an *inferior lineal* rank have no authority to command those possessed of *assimilated* rank of a higher grade; that is, cadets, second lieutenants, first lieutenants of the line cannot rightfully command or take precedence of those who have assimilated rank as captains. Nor can those who have *lineal* rank as captains take precedence and command of those whose *assimilated* rank as captains is of older date, especially when in the presence of a common superior—a major of the line, for example. Hence it is that assimilated rank is a conservative, or protective rank; without it, the officers of the medical, or any staff department of an army, might be made subordinate even to privates, and find no redress in law for such indignity.

Relative rank is the relative position of the several grades and degrees of rank of the army and navy compared with each other: and also, perhaps, with those of the "revenue marine." It is generally conceded, for example, that the grade of lieutenants in the navy is on a level with the grade of captains in the army; therefore, the relative rank of captains in the army and lieutenants in the navy is the same, the oldest commission taking precedence. But relative rank implies no right to command, either in the army or in the navy.

Precedence is merely priority of position resulting from rank.

The leading principles of the English system of precedence are based upon *primogeniture* and seniority. Priority of birth, and dates of patents and commissions, determine the precedence which individuals of the same rank take amongst each other, and thus the station and degree of each are

ascertained by means which rarely admit of controversy or doubt. In England, we find that in the church and in the law, in the civil and military service of the country, rank and *precedence generally*, but *not always*, accompany power.

During the last one hundred and fifty years, especially, the aristocratic spirit of British society has presented a well-defined and ascertained character. "From this source have sprung a variety of arrangements connected with court ceremonial, as well as with the intercourse of private society, which are mingled with, but in some respects *quite distinct from the duties, privileges*, and *powers* of those who are engaged in the public service. For example, though each rank in the peerage commands, according to a certain graduated scale, the respect of society, while it gratifies the ambition of its possessor and his family, yet no one member of the House of Lords possesses, in his political or judicial capacity, any greater amount of power than his brethren; the vote of a Duke reckons no more than the vote of a Viscount or Baron."*

Like the army, the navy consists *in fact*, though not *in name*, of *a line*, and *staff*.

The line of the navy consists of

Captains, . .	68	
Commanders, .	97	492 Commissioned Officers.
Lieutenants, . .	327	
Masters, . .	31	
Passed Midshipmen,	268	451 Warrant Officers.
Midshipmen, .	152	

The staff corps of the navy in fact, though not in name, are—

A hydrographic corps (detailed from the line).

Captain, . .	1	
Lieutenants, .	5	17
Passed Midshipmen,	11	

An ordnance corps (detailed from the line).

Captain, . .	1	
Commanders, .	2	11
Lieutenants, . .	8	

* Dodd's Manual of Dignities, &c. London, 1844.

A corps of Steam Engineers.

Engineer-in-chief,	1	
Chief Engineers,	8	
First Assis't Engineers,	8	68
Second " "	18	
Third " "	33	

A Medical corps.

Surgeons,	68	
Passed Assis't Surgeons,	37	148
Assistant Surgeons,	43	

A corps of Pursers. . . 64

The duties of pursers include those of the offices of quartermaster, commissary, and paymaster, in the army.

A corps of Chaplains, . 24

A corps of Professors of Mathematics, 12, of which number 7 are serving in the hydrographic corps.

A Marine corps: its duties are military, properly speaking, and it has a *line* and *staff* within itself. But as it is not a constituent of the *line* of the navy, it is cited here among the staff corps of the naval service.

Colonel, . . .	1	
(Staff Majors), .	4	
Lieutenant-Colonel, .	1	
Majors, . . .	4	73
Captains, . .	17	
First Lieutenants, .	23	
Second Lieutenants, .	23	

The aggregate of *the line* is 943, of which number at least 28 are employed on staff duty.

Exclusive of the marine corps, the corps of naval constructors, and those attached to the bureaus of Construction, and of Yards and Docks; and those on duty in connexion with the coast survey, the Naval Academy, the Mexican boundary, the inspection of provisions and clothing, the construction of mail steamers, nautical almanac, &c., an aggregate of about 50;—exclusive of all these, there are 344 officers belonging to the staff corps, or employed on staff duty, a number equal to *more* than one-third of the *whole* line.

HISTORY OF THE APPLICATION FOR ASSIMILATED RANK.

The medical officers and pursers together count 212 com-

missions, a number equal to nearly *one-half* of the whole of the *line* commissions in the navy; and equal to *one-fourth* of the *whole* of the commission and warrant *line* officers. The medical officers and pursers have been especially prominent in urging the establishment of an assimilated rank; and it is believed, the members of other staff corps also desire that they should be included in it. They ask to be placed on a footing with the staff corps of the army.

Very soon after the close of the war with England,—when the value of medical services was strongly impressed upon the mind of officers of the navy generally,—the medical officers asked to be assigned a definite rank. Their petition was sustained by the opinion of the Secretary of the Navy (B. W. Crowninshield), by the Board of Navy Commissioners, in official communications, dated January, 1817, and addressed to the naval committee of the Senate. In May, 1816, nine captains signed an address to the Secretary of the Navy, in which they say, "We consider the medical department of such great importance to the navy of our country, that no reasonable measures ought to be omitted which could have a tendency to retain in the service the professional ability of those gentlemen who, by their experience, knowledge, zeal, and humanity, have procured the esteem and confidence of those with whom they have been associated; and we also beg leave to express our belief that no reasonable inducements would be objected to by Congress to procure for those who are engaged in a perilous service, and who are constantly exposed to the diseases of all climates, the best medical aid which the country affords. To effect this, it must be obvious that the *rank* and pecuniary emolument ought to bear some proportion to what gentlemen of professional eminence would be entitled in private life." In December, 1816, four captains addressed the Secretary of the Navy on the same subject. They say: "We have heard with pleasure that it is the intention of the medical officers of the navy to address a respectful memorial to you, requesting that measures might be taken by the Department to procure for them a *definite rank* in the service, an increase of pay, and the establishment by law of the rank of hospital surgeon."

When these memorials were presented, there were but thirty captains in the navy; and if, to the thirteen signers of these addresses, the three navy commissioners who ap-

proved of their object be added, it is fair to infer that they represented the general opinion of the navy on the subject.

A code of regulations prepared by the Board of navy commissioners, published in 1818, and commonly called the "Blue Book," has a chapter on "Rank and Command;" but it applies *exclusively* to the *line* of the navy.

In December, 1833, the Hon. Levi Woodbury being Secretary of the Navy, the President of the United States submitted to Congress, for its action, a code of "Regulations for the Navy of the United States," prepared by a "Board of Revision," in conformity to an act passed May 19, 1832. The fourth article of that code provides an "assimilated rank" for surgeons, pursers, and other staff officers. This code is marked by confusion and incongruities, and did not receive the sanction of Congress.

In 1841, another code was prepared and printed, but was not formally promulgated, not having the sanction of Congress. The fourth article of this code provides an assimilated rank for officers of the staff with the line.

In 1843, still another code was prepared, having the same feature, but was never sanctioned by Congress.

Mr. Upshur was sensible of the great importance of this subject. In his report as Secretary of the Navy, of December, 1841, he said: "The evils resulting from the want of a proper naval code are of the most serious character, and will, if not remedied, ultimately ruin the naval service of our country. What can be expected of a community of men, living together under circumstances tending to a constant excitement and collisions, with no fixed law to govern them, and where even *rank* and station are imperfectly defined? The necessary consequence of such a state of things must be, disputes, contests, disorder, and confusion. Sometimes unauthorized power will be assumed, and at other times lawful authority will be disobeyed. It is impossible that a wholesome discipline can prevail in this uncertain condition of official rank and authority."

In his annual report, November, 1843, the Secretary of the Navy (the Hon. David Henshaw) said: "The medical department of the naval service requires talent, education, and moral worth, properly to fill it, of as high order as in other branches of that service; but the surgeons and assistant surgeons have no military rank. A modification of the law, by which medical officers in the naval service shall be en-

titled to rank in a manner similar to that prescribed in the army, might be beneficially made."

The Hon. J. Y. Mason, in his report as Secretary of the Navy, November, 1844, says: "Great anxiety is felt by many of the surgeons and assistant surgeons, and of the pursers in the navy, to have allowed them an assimilated rank; the corresponding officers in the army enjoy it, without detriment to the service. I respectfully recommend the subject to consideration."

In the year 1844, certain officers of the line—"commissioned officers of the United States Navy"—addressed a memorial to the naval committees of Congress, in which they assent that an assimilated rank should be established for medical officers, but object to assimilated rank as commander being assigned to surgeons until after their commissions shall have attained an age of twenty years. Those memorialists also express an opinion, that the claim to serve as members of courts-martial, convened for the trial of medical officers, as proposed by the medical corps, "ought to be granted."

In the year 1846, the Honourable Secretary of the Navy issued the following:—

"General Order.

"Surgeons of the fleet, and Surgeons of more than twelve years, will rank with Commanders;

"Surgeons of less than twelve years with Lieutenants;

"Passed-assistant Surgeons, next after Lieutenants;

"Assistant Surgeons, not passed, next after Masters.

"Commanding and Executive officers, of whatever grade, when on duty, will take precedence over all medical officers.

"This order confers no authority to exercise military command, and no additional right to quarters.

"George Bancroft.

"Navy Department, August 31, 1846."

Subsequently the following order was issued:—

"General Order.

"Pursers of more than twelve years will rank with Commanders;

"Pursers of less than twelve years, with Lieutenants;

"Pursers will rank with Surgeons according to date of commission;

"Commanding and Executive officers, of whatever grade, when on duty, will take precedence of all Pursers.

"This order confers no authority to exercise military command, and no additional right to quarters.

"J. Y. Mason.

"Navy Department, May 27, 1847."

In January 1848, about sixty or seventy officers of the line assembled in the city of Washington, for the purpose of procuring the revocation of those orders, on the alleged ground of illegality: two or three members of Congress were present at their meeting by special invitation. A committee from the body waited upon the Secretary of the Navy: one of the consequences of the interview was a formal protest drawn up by a member of the bar, and presented by "L. M. GOLDSBOROUGH, *Commander U. S. Navy, in behalf of the sea officers concurring in the sentiments of this communication, including himself.*"

This paper was subsequently printed, and circulated among officers of the line. Its positions were examined and proved to be untenable by Walter Jones.*

This combined effort to annul these general orders of the Executive failed.

In the sequel several acts in violation of these orders will be considered.

OBJECTIONS TO ASSIMILATED RANK EXAMINED.

The author of the pamphlet marked No. 1, sets out with a general statement of the duties which devolve upon the *line* of the navy, which he denominates the "military branch." The writer has *italicised* some words in the following quotations, which are taken in regular succession.

"To *build* and equip armed cruisers, to organize and discipline crews, and so to conduct the command on *its* distant mission, as to subserve the purposes of its creation, form the especial duty of the military branch. The entire management of the vessel, her internal police, her acts of aggression or forbearance, her safety in storms, her manœuvring in battle, in short, all that concerns the *honour* and *reputation* of the country that is represented by this floating fragment of itself, are confided within certain limits to this class."

Our author has certainly passed over the existence of the corps of seven "naval constructors," or he would not include ship-building and naval architecture among the duties of *line* officers in the navy. He is perhaps not aware that sixty-six per cent. of the construction and equipment of a

* Observations on certain objections to the general orders of the Secretary of the Navy, conferring assimilated rank on the Surgeons and Pursers of the Navy. By Walter Jones; 8vo. pp. 11; Washington, 1848.

ship of war, belong to the province of the naval architect, and consequently, some of the "honour and reputation" gained by "this floating fragment" to the country depends upon the professional skill of the naval constructor;* and something is also due to the manufacturer of ordnance, and ordnance stores.

If measured by the expenditure of money they involve, the duties of "constructors" is of the first importance in the naval service; and we all know, if there were no ships, there would be neither sailors, nor navy. A fortress, when completed, endures for years; but our floating castles, constructed at an expense, often, of five or six hundred thousand dollars each, are totally worn out in twelve or fifteen years, unless kept in repair at an expense which exceeds their original cost. In building and repairing one ship, the cost of material and labour expended under the immediate control of the naval constructor, who is necessarily the chief mechanic at a building-yard, is equal to no less than sixty-six per cent. of the cost of the entire vessel, including the armament and provisions.

The plans of our ships are devised by naval constructors; and their efficiency is consequently dependent on their skill. Through ignorance of construction, our most gallant officers and men might be sacrificed; for they could not correct the evils flowing from a badly planned ship, more readily than could the officers of a garrison remedy those arising from a badly chosen site and a badly built fort, which they were charged to defend.

Naval architecture is a branch of mechanics which *line* officers in the navy cannot reasonably be expected to understand, at least not sufficiently well to render it advantageous for the government to employ them in planning and building ships; should they be thus employed, they would cease to be "officers proper" of the navy, and it is believed they would be-

* The ratio of responsibility for putting a ship of war in readiness for active service is as follows:—

Construction, ...	66·3
Equipment, ...	17·7
Ordnance, ...	12·4
Provisions and clothing, . . .	3·2
Hydrography, ...	·4
	100·

come at best very indifferent and very expensive naval constructors. Men who devote themselves to one branch of study exclusively, are presumed to become more skilful in it, than those whose pursuits direct their attention to many subjects; yet naval constructors are not in fact included, in the organization of the navy, and are not held responsible by its laws or tribunals. They have neither commission, nor relative position in the service.

Thirty years ago, naval architecture had declined to such an extent in Great Britain, as may be seen by reference to the reports of the House of Commons, that a school of naval architecture was established, in which pupils were educated at great expense to the government. Though long kept back, those persons now hold high and responsible places. In the French marine, the first class pupils of the Polytechnique school are sent to the dock-yards to become engineers, where they have a suitable rank, but no military control. In the Danish, Swedish, and Russian navies, naval constructors have a similar position.

"Frequently still more *serious cases* and responsibilities, *incidentally* connected with the profession, devolve on the naval commander. He may negotiate treaties, *decide* delicate questions of international law, involving important commercial interests, and is sometimes called upon *to assume the office of umpire* between contending States, or contending parties in the same state."—*Pamphlet No.* 1.

Had our author cited some instances to support these assertions, it might be admitted that no *line* officer should command a vessel of war who is not a competent naval architect, diplomatist, and international jurist. Although he may never be called upon "to decide delicate questions," a knowledge of international law may be important to protect him from transgressing it. In his "brief and comprehensive view," our author has omitted the somewhat, though not entirely obsolete duty of a naval officer, which imposed upon him the superintendence of hospital buildings, hospital police, grounds, &c.

"Such is a brief and *comprehensive* view of the arduous and complicated duties of a naval officer. It is very obvious that a prompt and energetic performance of such duties demands the recognition of rank and authority. To insure obedience and subordination, *to inspire*

confidence and respect, and to establish that species of unity and concert of sentiment and action that is needful in enterprises of great pith, rank and authority are *essential principles*."—*Pamphlet No.* 1.

From these *data*, he concludes, *rank*, that is, relative position in authority, should enure to the *line* officers of the navy, and should not enure to *staff* officers in the navy. Nothing is necessary "to inspire confidence and respect," towards them(?): his words are, in another place, "there *certainly* seems to be no ground of absolute necessity why any *peculiar share of rank* or authority should be bestowed upon" them.

"Let us now turn to the *civil branch*. They derive their designation from the complexion of their functions, which are *eminently of the civil kind*, as contradistinguished from the military. This branch *consists* of *surgeons* and accounting officers, *styled* pursers. We will begin with a consideration of the medical corps."—*Pamphlet No.* 1.

There are no *civil* duties discharged under coercion of military law; *civilians* cannot form part of a *military* community; there is no "*civil branch*" in an army or a navy. The word is falsely applied; consequently, false ideas are conveyed, and false opinions are begotten and preserved. [This view has already been presented under the heads of "Military Men" and Military Command," page 8.]

The *staff* of the navy, as already indicated, "consists" of more than two corps; the *line* requires more help than is afforded by the pay, subsistence, and clothing department, and the medical department [page 16]. The functions of physicians and of accountants in a navy are *less* "eminently of the civil kind" than deciding "delicate questions of international law;" or "assuming" the office of umpire between contending States," or negotiating "treaties;" or (to descend in the scale) building ships, reefing top-sails in storms, "holystoning decks," "scouring bright-work," or supervising the laundry operations of a ship's crew; all of which are reckoned among "the arduous and complicated duties of a naval officer," i.e., *of the line*, who should possess, if our author is correct in his "comprehensive view," a Caleb Quotum-like capability in turning his hand to anything, and be really a self-suffi-

cient, buoyant *fac-totum* of the nation. The duties of *line* officers of the army in comparison sink into insignificance.

"It is evidently *a high moral duty*, as well as enlightened policy, which *teaches* a government to *watch tenderly* and *carefully* over the *physical comfort* and well-being *of those employed* in military service. The crews of our vessels, using the term in the enlarged sense, which *includes officers*, are exposed to every vicissitude of climate, all the casualties of sea-life, and all the hazards of war, which can impair health and endanger existence. To satisfy undeniable claims on its care, and preserve unimpaired, as far as possible, the forces that may be employed, the government engages the services of medical men, commanding by a liberal compensation the highest degree of talent and attainment.

"It is in this wise and humane policy *alone* that *this particular institution* originates. It is manifest from the very purposes of its creation, and the functions it fulfils, that the *connexion of this corps with the navy* is *incidental*, and *not direct;* that it is *an adjunct* or *auxiliary*.* It holds an honourable position and serves a valuable end. But these facts do not alter its essential character; it remains, notwithstanding, what we have termed it, *an adjunct* or an auxiliary, and, in a military point of view, is *wholly* subordinate. The great objects to which the navy is directed *do not come within* the sphere of its action; it takes *no part in the purposes of offence or defence;* it has no voice in the councils which shape and control the public duties of the vessel. Its dealings are with the sick, *who are generally few in number*, and, for the time being, *excused from duty*, and *not with the well*, who, each in his appropriate place, are engaged in the active concerns of the ship."—*Pamphlet No.* 1.

Merely a benevolent moral sense has taught the government "to watch tenderly" over the comfort of the *line* officers and crews of our vessels; and through this tenderness of the government they enjoy the luxury of competent physicians, free of charge. The statesmen who have legislated for, and controlled the navy since its establishment, were moved only in a feeling of pure, humane, and generous benevolence to create "this particular institution" for the *line*, being fully

* Commander Goldsborough puts forth the same kind of argument in the paper previously alluded to. The language of his pamphlet is—"Its [the navy] great aims and objects are military, and the conduct, control, and management of it was designed to be, and must of necessity be, absolutely military. As a mere appendage and auxiliary in the carrying out of this scheme, parties engaged in the pursuits of civil life are resorted to."

This pamphlet seems to be a text-book, from which many crude notions are borrowed, and urged rather by dint of repeated assertion than argument.

aware that sound health and physical capability constitute a very small element of the personal strength and courage which, with proper knowledge, are supposed to constitute military efficiency by land or sea. They are, no doubt, fully aware, "this particular institution" of humanity is not a necessary constituent of military organization; because the sick are "generally few in number," and "excused from duty," not for their own sake, or that of the service, but in courtesy to the members of "this particular institution."

But our author, nevertheless, would think the navy deficient in an essential particular, were the medical staff struck out of its organization; he would perceive that medical officers take an active and essential "part in the purposes of offence or defence," where the members of the *line*, *officers*, and *privates*, are prostrate in considerable proportion, from disease or wounds while in close proximity of an enemy; and then, too, he would imagine that "this particular institution" ought to have an important "voice in the councils which shape and control the public duties of the vessel," and, in a "military point of view," it should not be "*wholly* subordinate."

Medical officers are *directly* and *not incidentally* connected with the navy; they are not merely *adjuncts* or *auxiliaries*, but as essential to its organization as any grade in it. If not necessary, why incur the expense of a medical staff? if necessary, why characterize it as a mere incidental adjunct or auxiliary? Medical officers, equally with all others in a cruiser, "are exposed to every vicissitude of climate, all the casualties of sea-life, and all the hazards of war, which can impair health and endanger existence." The medical officer participates in the chances of life and death which fall to all alike, except during the prevalence of malignant, contagious, and epidemic diseases, when he and the attendants upon the sick incur greater hazards of life than others. During the excitement of battle, the efficient exercise of his profession requires a calm, fearless, steadiness of purpose, amidst the din and confusion which prevail; there is no part of the vessel, or of the field of action, however exposed, where he may not be called to discharge the functions of his office. It is common to assign him to a place of as little exposure as possible, not through motives of care for him, but for the benefit, comfort, and security

of those who may require his assistance. As well might our author disparage the powder magazine, and insist that it is a mere "adjunct or auxiliary," because its place is as secure from fire and destruction as the ingenuity of the naval constructor and ordnance officer can contrive it.

"It has been shown that rank and authority are conferred on the military class, because of the absolute necessity of the case; because order and subordination imperatively demand it; because the great purposes, for which a navy is built, cannot be carried into effect *without their aid.* But it cannot be urged that the same reasons apply to the class under consideration. Except so far as to regulate the *mutual relations* of the members of this corps, there certainly seems to be no ground of absolute necessity, why any peculiar share of rank or authority should be bestowed upon it."—*Pamphlet No.* 1.

It is admitted that the objects for which a navy is created, cannot be attained without the "aid" of officers of the line, or without defining "the mutual relations" which should subsist among them; but it is *not* admitted that officers of the line are capable of obtaining those objects without "the aid" of the staff corps in the navy, and therefore it is "urged that the same reasons apply" to every staff corps, for conferring rank and authority on them, and for defining "the mutual relations of the members" of each staff corps, not only to each other, but also to those of the line. Both *staff rank* and *assimilated rank* are necessary: *staff rank* to define clearly the mutual relations in command and in obedience of the members of each staff corps; *assimilated rank*, to define the relations between the members of one staff corps and the members of other staff corps, and between members of the staff corps and members of the line.

"The surgeon *stands* in a *single attitude* towards the service. The sick and the wounded are consigned to his charge, and it is manifest that there is no military position he could hold, and *no authority he could wield*, which would render his arm more expert in amputating a limb, or his brain more cunning in detecting a disease and applying a remedy. The control he exercises over his patients, is a moral, and not a military control, and no law of the land could either enhance or lessen it. The relation is one of kindness and skill on one hand, and confidence and gratitude on the other."—*Pamphlet No.* 1.

Every officer stands in a single attitude towards the ser-

vice, which attitude is defined by the limits of his duty. The sick and wounded are not released from the operation of military law as a consequence of their disabled condition, though excused from their ordinary duties; their obligations to obey are simply transferred from those whom they usually obey, to the surgeon who exercises a military control over them, and over the various attendants upon them, because his commands can be enforced, when necessary, only by military law. His moral influence over the sick and wounded is very much enhanced by, if not entirely dependent upon, the military position he occupies. If the surgeon were placed on a level with boatswains' mates, it is not probable he would possess authority, moral or military, sufficient to control the sick or the attendants upon them. His skill in amputating a limb, and his brain-cunning in detecting disease, could not impart to him the moral influence derived from his commission in the navy; and without this kind of moral influence, it is believed, no surgeon could command a large military or naval hospital. "To insure obedience and subordination, to inspire confidence and respect," military rank is as necessary for surgeons and other staff officers as for gentlemen of the line.

"We now arrive at the remaining class to be considered, called pursers. To insure convenience, system, and accountability in the current expenses of this establishment, this corps of officers was created. They formerly acted under a warrant given by the President alone, but in order to enable the government to make careful selections, and to exact bonds for the faithful discharge of their trust, the law of 1812 made them commissioned officers. Their duties are *purely mercantile;* they lie with the finances of the vessel and the victualling department. They negotiate bills of exchange, disburse public moneys, purchase and expend provisions, and, at stated periods, render exact accounts to the Treasury Department. *Their functions are limited to these acts*, and they have *no other* connexion with the navy; their *trust* and *office do not blend*, except incidentally, with its leading objects and purposes, and hence, like the surgeons, they *do not rise above the condition of valuable auxiliaries.*"—*Pamphlet No.* 1.

"The duty of a purser during battle, is to supervise *the passing of powder* on the lower deck, while the surgeon and his assistants care for the wounded in the cock-pit."—*Pamplet No.* 2.

The pursers are not merely auxiliaries in the navy; they constitute an essential part of its organization. Without pay and subsistence, without the disbursement of public

moneys, a cruiser could not be at sea. The functions of pursers, as described above, are of great importance to the navy, both in their "mercantile" aspect, and in serving the battery, during battle, with powder, which seems rather to be the function of a military than a "civil" officer. But the purely military duty of a purser is not always restricted to the supervision of passing powder; in some instances, at least, he commands the "fourth division," sometimes called "the berth-deck division," as entirely as *line* lieutenants command the other "divisions" of the crew, governing its supplies, parading and mustering it, and last, not least, leading it when called to board the enemy.

"The system now established for the disbursements of money and supplies in the navy, is satisfactory in its results. The purchases are made on fair competition, and the duty of distributing on ship-board, and of accounting to the department by the pursers, is performed with great regularity and accuracy. The limited number of pursers in the navy has made it indispensable to require of the commanding officers of the smaller vessels the performance of the duty of pursers; and it has happened, from unavoidable causes sometimes, in the prosecution of active operations against the enemy, that the commander was separated from his vessel and her stores. While there has not been a case in which any suspicion of misapplication of public property could attach to an officer doing duty as purser, there is no doubt that officers thus situated have had to meet losses by being held to account for all the stores received, to the delivery of which they could not attend without neglect of the paramount duty as commander of the vessel. I am entirely satisfied that it is injurious to the service, and unjust to the officers, to impose on them the duties of purser. The appointment of twelve assistant pursers, with a salary of one thousand dollars, which is now allowed by law to a commodore's secretary, will supersede the necessity of so employing the officers."*

That functions of purser must be performed, is admitted; and that they cannot be efficiently performed by *line* officers, while at the same time their peculiar duties devolve upon them, is also admitted. The duties of purser are indispensable; therefore they are not merely auxiliary, and not necessarily of an inferior character, as our authors assert. "Then," in the language of Walter Jones, "if they have succeeded in establishing this relation of *superior and inferior*

* Report of the Secretary of the Navy (J. Y. Mason), *December* 6, 1847.

in rank between the two classes of officers, is not the consequence inevitable that *military rank*, howsoever differing in degree, is common to both classes? But the proof of this intrinsic and indelible superiority in the rank of the one, and inferiority in the rank of the other, seems to be quite fanciful; it consists of an argument drawn from the general policy and reasons of State, which induce nations to build, man, and arm a navy. The one set of officers is destined to accomplish 'the great aims and objects of a navy,' which are said to be purely and exclusively *military;* whilst the other set is said to be a mere *appendage*, and only *auxiliary* to those 'great aims and objects.' Neither law nor departmental regulation has adopted this conclusion, whatever force it may claim from reasons of State. The whole navy itself, with all its constituents, material and moral, is but in the nature of auxiliary means to an end; auxiliary to the very motives and reasons of State that dictated its creation. There is nothing in the nature or reason of things—nothing in positive law or arbitrary regulation—that enables us to lay our finger on any one of the constituents, material or moral, of a navy, and to say this is a principal means, that but auxiliary. Neither the mere gradations in the ranks of officers, nor the greater or less importance or efficiency of auxiliary means, are sufficient to impress on any one set of means, the character of *principal*, and on another, the character of *auxiliary*."

No part which is essential to the efficient action of a machine is auxiliary. To claim that the hands and face of a clock are *principal* parts, or parts proper, because they are most conspicuous and prominent, and essential in indicating time to the observer, and that the pendulum, or weight, or wheels are merely auxiliary parts of the instrument, would not be more absurdly incorrect, than the notion that the navy consists of a principal and auxiliary parts. Each part is essential in obtaining an end which is a result of the united action of separate parts. It should not be forgotten that the hands of a clock depend entirely for motion upon the weight, pendulum, and wheels, concealed from common observation; like the hands of a clock upon its wheels, the *line* of a military establishment is dependent on the *staff* for its efficient movement, which, when crowned with brilliant results, exclusively attracts common admiration: the names

of the *hands* of the machine are generally known, but comparatively few are aware that the *wheels* have distinctive appellations.

"The general conclusions we derive from a candid consideration of these facts may be thus stated: that rank and authority are given by the government exclusively to carry into effect its own purposes, and that they are not given as marks of personal distinction, except so far as they are needful to accomplish the objects in view. They are given in military institutions, to the military class, as indispensable means of performing its duties, and on the other hand they are *not* given to the civil branch, because the peculiar functions of that branch in nowise depend on them."—*Pamphlet No.* 1.

The *line* has rank and authority as the necessary means to accomplish the purposes of the government, is a proposition freely admitted; but that the *staff* does not possess rank or authority, and that neither rank nor authority is a necessary means to obtain the objects of its creation, constitute a proposition which is utterly denied. In the army, all the military architects, constituting the "corps of engineers," all the military surveyors of land and harbours, constituting the "corps of topographical engineers," are reckoned in the *staff:* each corps is composed of several grades [page 13] subordinate to each other, and every officer in those grades has a rank, and the degree of authority commensurate with it. The same is generally true of those divisions of the *staff* which constitute the "Quartermaster's department," and the "Commissary's department," [page 13] of which the duties of both are discharged in the navy by pursers. But our author denies his own assertion in a subsequent paragraph.

"It would be vain to attempt to trace the origin of rank to any well-defined law. Our general system is borrowed from British rule, and we have embodied the British ideas of rank, so far as they were applicable. The order of *rank existing* with us before the *period of executive interruptions* [see General Orders, page 20] is derived from *naval custom or usage from time immemorial;* it enters into every rule of discipline, and is acted upon in the daily and familiar routine of duty in every ship afloat. It is anterior to any laws that have been passed on the subject, but so far as a principle so manifest and so familiar to naval life could be strengthened, it is confirmed and fortified by a variety of legal enactments. In the laws distributing prize-money, the leading idea was *to proportion* the shares to *the*

grade, and accordingly, that to the surgeons and pursers fall *a smaller share than to lieutenants*, and that in the order of enumeration, they occupy *an inferior* place."—*Pamphlet No.* 1.

"A law of Congress, entitled an act for the better government of the navy, approved April 23, 1800, provided for the distribution of prize-money *according to the rank* of officers in the navy and marine corps. Article 1st, provides for the proportion of commanders of fleets and squadrons, and commanders of single ships. Article 2d, provides for sea-lieutenants, captains of marines, and sailing-masters.

"Article 3d, provides for chaplains, lieutenants of marines, surgeons, pursers, boatswains, gunners, carpenters, and masters' mates. In each of these cases, the order in which the different grades are enumerated, and the amount of prize-money conceded, is *indicative of the rank* of the officer specified. Being a law of Congress fully approved, it is as much a supreme law, as any other portion of the existing naval code, of which it forms a part; is in full force, and can only be repealed by the passage and approval of another act."—*Pamphlet No.* 2.

The object of these arguments is to show, not that surgeons and pursers have neither rank nor authority, as at first asserted by the author of Pamphlet No. 1; but to demonstrate that the rank and authority of surgeons and pursers are *inferior* to the rank of officers of the line: "so that," to use the language of Walter Jones, "the *lowest* grade of the last is superior to, and entitled to command, the *highest* grade of the others. Then, if they have succeeded in establishing this relation of *superior and inferior* in rank between the two classes of officers, is not the consequence inevitable that *military rank*, howsoever differing in degree, is common to both classes?"

Both our authors are inaccurate in their reference to that part of the law relating to the distribution of prize-money: it is in the following words:—

"*Section* 6, *Art.* 2. To sea-lieutenants, captains of marines, and sailing-masters, *two*-twentieths; but where there is a captain of marines, without a lieutenant of marines, these officers shall be entitled to two-twentieths and one-third of a twentieth, which third, in such case, shall be deducted from the share of the officers mentioned in Article No. 3, of this section.

"3. To chaplains, lieutenants of marines, surgeons, pursers, boatswains, gunners, carpenters, and masters' mates, *two*-twentieths.

"4. To midshipmen, surgeons' mates, captains' clerks, schoolmasters, boatswains' mates, gunners' mates, carpenters' mates, ships'

stewards, sail-makers, masters-at-arms, armorers, cockswains, and coopers, *three*-twentieths and an half."

The rank and degree of authority of the officers cannot be deduced from the order in which the several grades are named in this act, nor from the fractional share of the aggregate of prize-money to be distributed to each class formed in the several articles of the law. It will not be admitted that sailing-masters, who are warrant officers, are of a superior grade, and have a right to exercise authority over chaplains, lieutenants of marines, surgeons, and pursers, who are commissioned officers, because sailing-masters are named in the *second* article, and those commissioned officers are named in the *third* article, for prize-money. Nor will it be admitted that boatswains, who are warrant officers, are superior in rank and therefore have a right to command surgeons' mates, [assistant surgeons,] who are commissioned, simply because, in this act, the former are classed in the *third* article, and the latter in the *fourth* article, for a share of prize-money. No pretensions to *superiority* or *equality* can be sustained by this portion of law; their absurdity must be apparent to every officer of reflection and experience.

The following report by Commodore John Rodgers, President of the Board of Navy Commissioners, is pertinent to this point, and to the whole subject under consideration:—

"Navy Commissioners' Office,
Washington, January 23, 1817.

"Sir:—In conformity with a request made in your letter of yesterday, the Commissioners of the Navy present to your consideration their opinions on the petition of the Surgeons of the Navy, referred to you by the Naval Committee.

"It seems to be just that, inasmuch as the duties and responsibility of navy surgeons call for an equal degree of professional knowledge, as well as of respectability of character, with those of the army, they should be put on the same footing, with respect to *rank*, pay, and emoluments.

"The commissioners are further of opinion that the navy surgeons, as regards their rank in relation to each other, as well as with the surgeons of the army, ought to take rank according to the dates of their commissions.

"The commissioners cannot perceive the justice of the complaint of the petitioners, 'that in consequence of their being *classed*, in the distribution of prize-money, with persons with whom they do not

and cannot associate, the respect to which the profession is entitled has been considerably diminished in our public service.' *This classification is merely* to specify the sum to which surgeons are entitled in the distribution of prize-money, and neither *involves any general idea of equality, nor imposes any necessity of associating with inferiors.*

"With great respect,

"Sir, your obedient servant,

"JOHN RODGERS.*

"Hon. B. W. CROWNINSHIELD, *Secretary of the Navy.*"

The views of our authors are not sustained by the opinion of the Navy Commissioners of 1817, all of whom were probably in the navy when the law in question was enacted, and were likely to know, therefore, the intentions of the act. Had it been designed to indicate the rank of officers, it is not probable they would have recommended, in the face of it, the establishment of rank for surgeons.

"Again, in acts passed in 1794 and 1797, providing for an increased naval armament, in the pay bill of 1835, and in the Navy Register, printed annually since 1815, the same order of enumeration, so far as it respects the two branches of the service, has been always scrupulously observed."—*Pamphlet No.* 1.

In the law of 1794, surgeons are named in Section 2; and in Section 3, the midshipmen are named *after* the sail-makers and carpenters, and the same sequence of nomination occurs in the act of 1797. In the act of 1835, assistant surgeons are named *before* surgeons, professors of mathematics *before* sailing-masters, and midshipmen *before* clerks, boatswains, &c. The order in which the grades are named in the "Navy Register" is not in conformity with the order of nomination, either in the law relating to prize-money, or any other of the acts cited; the arrangement of the Navy Register is discretionary, and not prescribed by law, and has no authority. Therefore, the degree of rank or authority of officers, whether of the line or of the staff, cannot be inferred from either, or all conjointly.

Commander Goldsborough, in his pamphlet, labours to infer the existence of rank from the law of February 7, 1815, which provides for the creation of a Board of Navy Commis-

* American State Papers. Vol. Naval Affairs, p. 443.

sioners. "The second section of that act," he says, "directs the said Board of Commissioners, by and with the consent of the Secretary of the Navy, to prepare rules and regulations. One of the specific purposes of these rules and regulations was to 'secure responsibility in the subordinate officers and agents.'" Under authority of this act the code, known as the "Commissioners' Rules and Regulations," was devised and promulgated. "In the same code will be found," says Commander Goldsborough, "a distinct chapter under the head of 'rank and command.' The commission officers are divided into ranks and denominations. A specific provision fixes the order in which officers shall take precedence and command. The regulations in regard to surgeons, pursers, secretaries, chaplains, and other *non-combatants*, imply inferiority of rank and subordination in authority." This was written January 27, 1848.

The Commissioners' rules on this point are of no weight or authority in law.

On the 29th December, 1819, twenty months after the Commissioners' rules were laid before Congress, the Hon. Secretary of the Navy, Smith Thompson, informed the President of the Senate that these rules "*are at variance with existing laws*," and stated in what particulars. In the same letter he says:—"So far as the rules relate to the *subjects upon which they were to be prepared*, as specified in the Act aforesaid, *they may be* binding and operative, without any further legislative provision. But it will be perceived, from an examination of the rules and regulations that *many of them* relate to subjects *not enumerated, or coming within the purview of the act under which they were prepared;* in which cases they have not the force and effect of laws, and further legislative provision is necessary to give them such effect." It appears that these rules were revised and again brought to the notice of the Senate, January 11th, 1821, by the Hon. Smith Thompson; he refers to his former report of Dec. 29, 1819, and says of these *revised* rules, "although *not* [now?] *directly* at variance with existing laws, *may nevertheless require the sanction of a law* in order *to justify* their enforcement."*

In 1841, long before the question of rank was so zealously

* American State Papers, Vol. Naval Affairs.

discussed, Mr. Upshur gave his opinion that the Commissioners' code was not sanctioned by law. He thus expressed himself:—

"By the act of Congress, approved 23d April, 1800, certain general rules and regulations were enacted, embracing the most prominent and important subjects relating to the service. These are still in force; but although they are of a character to apply to the navy, in whatever condition it may be placed, and were deemed altogether sufficient for it in its then infant state, they are too few in number, and enter too little into details to answer their purpose at the present day. Acting upon this idea, the Board of Navy Commissioners, soon after its establishment in 1815, compiled 'Rules, Regulations, and Instructions for the Naval Service of the United States,' with the consent of the Secretary of the Navy, in obedience to an act of Congress, passed 7th February, 1815, entitled 'An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners.' This compilation, commonly called the Blue Book, is still *practically* in force, and, together with the act of 1800, constitutes the only system of rules and regulations for the government of the navy.

"By the act establishing the Board of Navy Commissioners, it is provided 'that the said Board of Commissioners, by and with the consent of the Secretary of the Navy, be and are hereby authorized to prepare such rules and regulations as shall be necessary for securing an uniformity in the several classes of vessels and their equipments, and for repairing and refitting them, and for securing responsibility in the subordinate officers and agents; which regulations, when approved by the President of the United States, shall be respected and obeyed, until altered and revoked by the same authority; and the said rules and regulations, thus prepared and approved, shall be laid before Congress at their next session.' Whether or not the Blue Book (which derives its authority from this law alone), was ever approved by the President of the United States, or laid before Congress, I have no means of ascertaining.* The probability is that it was *not* approved, as the book itself contains no evidence upon the subject. But, even if both these formalities were observed, it is altogether clear, to my mind, that the commissioners acted without authority in prescribing many of the rules and regulations contained in the book.

"The obvious intention of the act of Congress is to make the Navy Commissioners the ministerial agents of the Secretary of the Navy, for certain purposes. He has no authority to employ any *other* agents for those purposes. Among other things, it is their duty, under the second section of the act, 'by and with the consent of the Secretary

* These rules were communicated to Congress by President Monroe, April 20, 1818. See American State Papers. Vol. Naval Affairs.

of the Navy, to prepare such rules and regulations as shall be necessary' in the execution of the specific duties therein assigned to them, and for 'securing responsibility in the subordinate officers and agents' *employed in those duties.* There is nothing in the terms of the act, and nothing in its plain purpose and intention, to authorize the commissioners to prepare a *general* code of rules and regulations for the government of the navy. They were strictly confined to the purposes mentioned in the act; to wit: 'securing an uniformity in the several classes of vessels and their equipments, and repairing and refitting them.' For these purposes, and no other, they had authority to prepare, by and with the consent of the Secretary of the Navy, such rules and regulations as they might deem proper; and, as a necessary incident to this authority, to prepare additional rules for securing responsibility in their subordinate agents.

"That this is the true meaning of the act of Congress is so apparent, that I deem it wholly unnecessary to enter into a more critical examination in order to prove it.

"But the Blue Book is not confined to these objects. It contains a great variety of rules and regulations, applying to every department of naval duty, and to every officer and man connected with the naval service. It is designed as a general code of rules and regulations for the government of the navy, and, as such, is universally received and daily acted on.

"Under this code, thus questionable in its authority, and altogether insufficient in itself, the navy has been governed for twenty-three years! There is, in truth, no law upon the subject; no obligatory rule whatever, except what is found in the act of 1800; and that is altogether imperfect and inadequate."*

The inference is inevitable, that by legislative enactment, direct or indirect, medical officers and pursers have no military position assigned them in the navy. Their position is uncertain, and can be made to vary in different vessels, in accordance with the various opinions entertained by commanders on the subject. In other words, the position they occupy, relatively to the *line*, is dependent on the courtesy of those with whom they may be associated on duty. The following paragraph is in corroboration of this assertion:—

"We will now state in precise terms what *we conceive* to be *the true position* of the surgeons and pursers, as derived directly from *naval usage*, and sanctioned *indirectly* by legal enactments. On board of a ship of war, the surgeon and purser, in respect to subor-

* Report of the Secretary of the Navy (A. P. Upshur). *December* 4, 1841.

dination, are inferior to the commanding and *executive officers;* in respect to certain matters of ceremonial and etiquette, they occupy intermediate ground *between* lieutenants and midshipmen, and in respect to *social privileges*, are on a level with all; but *they exercise no military authority* except over their respective assistants."—*Pamphlet*, No. 1.

If surgeons and pursers occupied a definite position, based even upon unquestioned and unquestionable *usage*, that position would be so familiarly known to our author, that he could not have avoided stating it in positive terms; his language would show that he had no doubts in his mind upon the subject. But his words imply clearly that the "position of the surgeons and pursers" is a matter of opinion, and that in *his* opinion, or in other words, he *conceives* "the *true* position" to be, &c., thus intimating he has a vague notion of the existence of positions which are not true.

The term "executive officer," is of recent application in the navy, to the senior or "first lieutenant" of a ship; but it has no *legal* or *official* existence:* recurrence to this point will be necessary in the sequel.

The opinion of our author is, that the surgeon and purser in a ship are *officially inferior* to the commander and first lieutenant only; *ceremonially*, they are *inferior* to all others except midshipmen; *socially* equal to all, and that they *do* exercise *military* authority over their respective assistants, for, to use the words of our author on another page, "*what other than military authority can exist in military institutions, we are totally at a loss to conjecture.*"

"The absolute necessity of their subordination to the commanding officer is too apparent to waste a remark upon, but some have entertained doubts whether their subjection to the *executive* lieutenant is equally clear. On this point we will briefly remark, that the *executive* lieutenant stands in such a relation to the ship, that the purposes of order and discipline would be utterly defeated if the civil corps were allowed to impugn his authority."—*Pamphlet*, No. 1.

The duties of "first lieutenant" of a ship in the navy of the United States are very nearly if not exactly the same as in the British navy, in which he is sometimes characterized as *the* lieutenant.

* See Appendix. Letter of Commodore ———.

But the office of first lieutenant or executive officer is not known in the laws or regulations of either the navy of England or of the United States. In fact, even the "Blue Book," or "Commissioners' Regulations" does not recognise any difference whatever in the duties of lieutenants. With our author, it should be received as authority. According to the "Blue Book," there is no such office as that of "first lieutenant," as described by our author. Under the head "Of the lieutenant," is the following article (22), from which it may be inferred the commissioners did not contemplate that any lieutenant was to be charged with special duties, and be, on this account, excused from keeping a regular watch:—

"22. In the *absence* of the captain, the senior lieutenant on board the ship is to be responsible for everything done on board. He is to see every part of the duty as punctually performed as if the captain were present. He may put under arrest any officer, whose conduct he shall think so reprehensible as to require it, and he may confine such men as he may think deserving of punishment; but *neither he, nor any other lieutenant who may become commanding officer*, is to release an officer from his arrest, nor to *release* or *punish* any man who has been confined—for this is done *by the captain only;* unless he be absent from the ship with leave from the Secretary of the Navy, or from his commanding officer, in which case it is to be done only by the senior lieutenant commanding the ship in the captain's absence."*

In this case he ceases to be lieutenant, and becomes virtually captain for the time being; for the time, all the functions and responsibilities of captain devolve upon him.

But suppose there is a first lieutenant by law:—Our author says, "It would be a difficult task to convey to one, not familiar with naval life, an adequate idea of the variety, extent, and responsibility, of the duties of a first lieutenant." "The first lieutenant is the deputy of the officer in command. Though the office of lieutenant is less responsible, yet it is far more laborious than that of the captain. He practises a general supervision of the whole ship, and attends particu-

* Rules, Regulations, and Instructions for the Naval Service of the United States, prepared by the Board of Navy Commissioners of the United States, with the consent of the Secretary of the Navy, in accordance with an act of Congress, passed Feb. 7, 1815, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners." Printed by E. de Krafft, Washington City, 1818.

larly to proper cleanliness and regularity throughout the vessel. For this purpose, he inspects every part of her, once a day at least, and *reports her condition* to the captain. Besides this, his duties, as they are strictly practical, involve considerable labour; as, for example, in stationing the men when the ship is commissioned; in exercising them at the guns; in regulating the expenditures of certain public stores; in taking the immediate command when coming to an anchor or getting under weigh; in granting leaves of absence when the ship is in port," &c.*

"Among his duties are the maintenance of the police and discipline of the vessel, the preservation of cleanliness and *decorum in every department*, the *enforcement* of the general laws of the service, and of the internal regulations, which are peculiar to the vessel; and over all his acts the commander exercises a supervisory care. Now, it seems to be a very preposterous proposition, which would announce that the *civil* corps were *above his control*—that if *he orders* the drum beat to quarters, the purser and surgeon could pause to ascertain *whose commands* were thus proclaimed, before the one repaired to the cockpit, and the other to the wardroom; that if summoned to the quarter-deck to attend *general muster*, *divine service*, or any more special duty, the *authority* from which *these orders* emanated could be safely repudiated and set at naught. It seems, in short, absurd to suppose that there could exist, consistently with the well-being of the service, such *an anomaly*, as *a class of officers* at once *amenable* to the laws and discipline *of the ship*, and *free from* the *authority* and *control* of the *very functionary appointed to enforce law and discipline*. Examples like those cited above might be multiplied ad infinitum (?), but we have said enough to show that no reasonable doubts can be entertained on this head; if there are doubts, they are of recent origin—they are the offspring of modern pretension, and are disavowed by the uniform practice and experience of the service."—*Pamphlet*, No. 1.

Under the head of "Regulations for the promotion of discipline, cleanliness, &c.," the Blue Book provides (Article 23) that each lieutenant shall be responsible, not only for the necessary supplies, and "*everything* relating to the conduct of the men who constitute the division under his command," including morality, decorum, professional knowledge, and obedience, but also for the conduct, &c., of masters' mates and

* A Manual of Dignities, Privilege, and Precedence. By Charles R. Dodd, Esq. London, 1844.

midshipmen. And under the same head (Articles 18, 19), most of the duties claimed above for the first lieutenant are assigned to the captain. But our author does not seem to recognise any difference in authority between the captain and the first lieutenant: he seems to regard them as coequal in the right to command. He will find it difficult to cite a statute which clearly shows that the first, or senior lieutenant, is "appointed to enforce law and discipline." It is believed a great deal is here assumed for the first lieutenant which captains, generally, will not be disposed to allow.

The first lieutenant is the deputy of the captain; but, as such, he has no authority to originate commands, except so far as may relate to petty details involved in the execution of the orders of his superior; and he has no legal right to inflict punishment, in conformity to his *own judgment* or *pleasure*, even if *his* commands be disobeyed, by officer or private, while executing the instructions of the captain. The origin of authority or command in a ship is lodged in the captain exclusively; and he alone has the right to hold any person responsible for their acts, either within the limits of his own legal power in cases of minor faults or offences, or through the agency of a military tribunal, in cases of grave import. Whenever the deputy inflicts punishment of any kind, without the special command of the captain, he is guilty of assumption of a power which the captain himself cannot legally delegate to him. This is the theory, and such is the law; they are not altered by the fact that, for the sake of his own convenience and comfort, or other consideration, the captain does occasionally permit the first lieutenant to exercise the power of punishment, which is, according to the letter and spirit of the law, restricted to himself alone. The practice of delegating authority to the first lieutenant is daily becoming less frequent than it was some years since; and, in conformity to law, the first lieutenant, like others, submits to the decision of the captain all cases which, in his opinion, require the coercive interference of authority or law.

If the first lieutenant has an independent right to order the ship's company "to quarters," by beat of drum or otherwise, by a slightly increased assumption of power, he might also engage the ship in battle. If he has legal authority to order general musters of the crew, and divine service; to

place the ship in battle array, and to "enforce law and discipline;" to make and take in sail; to come to anchor or to get under weigh; if his duty is to do any one or all of these things, independently, it may be respectfully asked, what power, what authority are left to the captain? and what are his peculiar duties? Surely not merely to supervise the acts of the first lieutenant. When the drum beats to quarters, the command thus proclaimed, is presumed to be that of the captain, communicated through the agency of his deputy, the first lieutenant; and such, also, is the presumption when general musters, divine service, etc., are ordered. But, if this notion be incorrect, and the captain remains tranquilly in his cabin while the drum-beat proclaims the *first lieutenant's* commands to quarters, by what law is his authority, thus impugned, to be enforced?

The idea seems to exist in the mind of our author, that a first lieutenant cannot discharge the functions of his office without possessing a legal right of unlimited control over every person and everything in the ship; yet it is presumed, were he to review the premises laid down by himself, he would modify very considerably his own conclusions.

The purser has special charge of a large amount of public property of various kinds in the ship, to be expended in the public service. He guaranties the proper expenditure of this property and moneys intrusted to his keeping, not only by considerations for his character, like other gentlemen, but also by pecuniary bonds. He is really responsible for public property and moneys to the government alone, which holds him to account in an office of the Treasury Department. Besides the security derived from bondsmen, various checks are thrown upon his expenditures. He is required to submit proof that every article and every dollar have been properly expended. Under the head of pay, the proof is found in individual acknowledgments of the amounts paid; and under other heads, the signature of the captain in approval is sufficient to vouch for the propriety of an expenditure. But neither the first nor any other lieutenant can give him an available voucher. Even the "requisitions" for clothing, &c., furnished to the men, though signed by the lieutenants for their respective divisions, are not "vouchers" without the approving signature of the captain. The purser cannot lawfully expend any article of public property without the tes-

timony of the captain; but the necessity of the captain's evidence of the propriety of his act, does not imply that he is responsible to the captain; and he certainly cannot be held responsible by the first lieutenant, who is not even competent to give him a voucher. The captain has a right to order expenditures by the purser, but always according to certain forms, even in cases where the expenditure is directed in opposition to the rules of the Navy or Treasury Departments; and it is compliance with those forms by the captain, who thus becomes responsible for irregular expenditures, that the responsibility of the purser to the government is cancelled. But the first lieutenant possesses no such right. Having no power to direct or vouch for expenditures by the purser, it is at least fanciful to suppose he should have control over public property in the purser's trust, or over the purser himself as to this matter. For the interests of the government and of the public service, it seems sufficient that the purser is subordinate to the captain exclusively. What is true in the case of the purser, is also true of the clerks and subordinates in his department, who should be bound to obey him in all things not inconsistent with law.

The department of the surgeon does not require the interference or control of the first lieutenant in any respect whatever. The government reposes trust and confidence in the surgeon to perform the peculiar functions of his office, and has provided a mode of punishing him for delinquency in his duties, and has also established his responsibility for conduct and expenditures in his department, not to the first lieutenant or captain, but to an administrative office of the government. In the treatment of the sick or wounded, in regulating the police measures of the place in which they repose, or in directing the acts of subordinate attendants upon them, he requires neither instruction nor advice from the first lieutenant, or any other officer of the line. He is competent to command all in his own department; no control of the first lieutenant over his acts could possibly assist him, or benefit the service.

The right to exact obedience from a medical officer is not essential to obtain his professional services. If such right were essential, it would be absolutely necessary to assign medical officers the most inferior position in a ship or camp; even below a side-boy or the youngest drummer-boy, for he,

from disease or wounds, may have occasion to command the professional services of the physician. Military law has wisely provided a manner of compelling the medical officer to serve a side-boy or drummer-boy, as well as the commodore or general; the latter can secure the punishment of the recusant medical officer under a charge of "disobedience of orders," but the former can attain the same redress under a charge of "neglect of duty." Therefore, the only reason assigned for making an exception to the precedence of assimilated rank, in favour of first lieutenants, or of officers of the line while in command, or "commanding officers," namely, that the officer temporarily in command, without reference to grade or degree of *lineal* rank, should have precedence, so that he may be able to exact the services of the staff officer, through a charge of disobedience before a court-martial, is inconclusive, if not fallacious; for the medical officer, who should disregard the *request* of a private, or of an officer junior or inferior in rank, could be as effectually punished for "neglect of duty," as for "disobedience of orders."

All that relates to the preservation of health, as well as all that relates to the cure of disease, should be under the control of the surgeon, who should be held responsible for his acts and the advice he may give. "The nature of the causes which act on health are not correctly understood by the generality of mankind; and it is scarcely to be expected that those who command armies (or ships of war)—who dedicate their time to perfect the tactics of troops, in anticipation of the effect which arises from tactic in the conflict of battle; or, that those who administer government, and who, to manage with dexterity, devote their time and study to find out the propensities and passions of those who hold the strings of the national purse, which is the omnipotent engine in all national operations, can or will take the trouble to penetrate deeply into the study of an abstruse science, like that of health. The study of health is a study of value; but it is not accompanied with the external splendour or political distinction which men covet. It requires great labour and some talent, to attain even the first principles of knowledge that relate to it; and as correct knowledge is attained with difficulty, those who possess power, not submitting to be instructed by those who have no power, except what arises

from force of reason, follow their fancies, consequently err in the course which they pursue."*

The application of Medical Science to the preservation of health has already lessened the hazard of life of those who frequent the seas. Of this there is abundant proof in the decreasing rate of mortality in the British Navy of late years. In 1779, the deaths were 1 in 8, annually; in 1811, 1 in 32, and in 1836, 1 in 72. In the first years of the American Revolutionary war 6064 men, mostly affected with fever and scurvy, were sent ashore from the channel fleet in the course of four months; and on another occasion, 2500 were brought into port, after a ten weeks' cruise. In the present day scurvy is almost unknown. It is said the gallant Lord Nelson, by precautionary measures, "kept the crew of the vessel he commanded in such perfect health as not to have lost a man by death in three years, and this too on the West India Station!" It is the province of the medical officer to suggest measures for preserving the health of seamen; it belongs to the commanding officer to give them due effect.†

The following brief history exhibits not an uncommon instance of the unfortunate effects of the exercise of power, and of influence of station over subjects which have not engaged careful study. Physicians can readily understand the bearing of the instances now brought forward upon the question under consideration; and it is hoped they will endeavour, in their intercourse with legislators in all parts of the country, to make them comprehend the value of medical science, properly applied in the public service.

The U. S. ship Macedonian was fitted out at Boston in February and March, and sailed April 2d, 1822. She arrived at Havana on the 28th of the same month, and, in consequence of the crew being diminished and enfeebled by deaths and disease, returned to Norfolk in August following.

A court of inquiry to investigate the circumstances which induced the captain to abandon the cruise, assembled at Charleston, Massachusetts, October 7th, 1822. The court

* Jackson's Formation, Discipline, and Economy of Armies. London, 1845.

† See, Ballingall's Military Surgery. London, 1844.

consisted of Captains John Rodgers, Isaac Chauncey, and Charles Morris.

The following summary is drawn from the testimony adduced before this court.*

The frigate Macedonian sailed from Boston, April 2d, 1822, and arrived at Havana on the 28th, and while she remained there that place "was reported to be *remarkably healthy*." Prior to sailing, the hold of the ship had been "sufficiently cleansed" and whitewashed; and when carefully examined at Norfolk, after the return of the vessel, it was found "there was not more dirt than usual in the hold."

On the voyage out many of the men suffered from "catarrhal attacks," consequent upon a severe storm. "In the course of ten days after, there was a visible improvement in the health of the crew; they continued to be better, their colds passed off, and when the ship arrived at Havana, there were from 18 to 20 sick," and none of them "were confined to their hammocks," and in the opinion of the assistant surgeon, the crew were healthy. The ration of water was not restricted; but the orders of the captain prevented a sufficiency of clothing for the purposes of cleanliness from being supplied to the men; and from the 30th of April until June 29th, a period of two months, they were without both tea and sugar, and were not permitted to have any, because they were "a little in debt" to the purser. They were allowed to sleep in the open air on deck during their watches at night.

While at Havana, the temperature of the air on the gun-deck was from 82° to 86°, and in the hold, it was supposed by one witness to be as high as 110°: the assistant surgeon testifies that it was so hot below, that he could not sleep in his room in the cockpit. The ship "did not get much air with her head to the wind," and was not hove up broadside to it, except for a short time, or a few days. "The breeze commenced generally in the morning, and continued till sunset," and at night it was calm, or nearly so.

* Minutes of the Proceedings of the Court of Inquiry ordered by the Secretary of the Navy on the application of Captain James Biddle, begun and held at the Navy Yard in Charlestown, State of Massachusetts, on Monday, the seventh day of October, 1822. Printed by order of the Navy Department, from the Official Record. Davies & Force, Washington City. 1822.

The ship was kept clean, but was damp between decks.

Between the 28th April and 7th May, the captain ordered water to be let into the ship and pumped out daily; but being informed by some English officers that in the British navy, there was a standing order against letting water into their vessels at the port of Havana, he discontinued the practice. The water here "was very filthy and offensive to the smell; there was a gelatinous substance on the chain cable when hove in," which appeared to be very offensive, and therefore the assistant surgeon advised that the chain should be washed before being stowed below.

While in port the men were exercised at the great guns every afternoon at first, but subsequently, "immediately after breakfast," for three-quarters of an hour. A boat-race took place in the harbour, in which some of the men were employed: "the man who was first attacked and died," says Dr. Chase in his testimony, "had been in a boat-race in the harbour the day before."

The berth-deck was capable of accommodating comfortably, probably 200 men at most. By order of the captain, not less than 340 men were compelled to sleep "for two or three nights" on this berth-deck, with the air-ports closed, in order to punish some person or persons *unknown*, who had cut a gun's breaching; a most criminal act as all naval men know. This *punishment* (?) occurred *before* the appearance of the epidemic fever on board.

It appears that, between April 2d and September 5th, a period of five months, of the 376 souls on board, 101 died, including 4 commissioned and 7 warrant officers, and among them was Dr. Cadle, the surgeon of the ship. During the illness of Dr. Chase, the assistant surgeon, when the sick were without medical advice, 35 of them died.

The captain, who is represented to have been always solicitous for the health of the ship's company, attributed this sickness (yellow fever) and its frightful mortality, to a foul condition of the hold of the ship, and not to any, or a combination, of all the circumstances above related. At a muster of the crew at Havana he stated this opinion, and charged the officers of the navy yard at Boston with being the cause of the evil, through neglect to cleanse the hold properly, when fitting out the ship. The effect of the promulgation of his views caused great despondency among the

men, who reasonably believed that an unavoidable source of disease and death was in the ship.

The members of this court give their opinion that the cause of the disease was sudden transition from a low to an elevated temperature; to remaining long at Havana, and letting water into the hold while there; and permitting the men to sleep about the decks. "The want of additional clothing, of tea and sugar, and the despondency of the crew, which have been enumerated by the medical officers, in the opinions they have given, would not, in the opinion of this court, have produced in themselves any considerable injury to the health of the crew."

It does not appear that the captain was officially censured. The illegal mode of punishment resorted to by him is not even alluded to in the opinion of the court.

All the orders of the captain were intended, no one who knew him will doubt, for the benefit of the ship's company, and even the illegal punishment was designed for the best. But the propriety of orders cannot always be established, simply on the ground that their intention was good. Although designing to do the best, a hundred lives were sacrificed, through a want of knowledge of the laws of life and health in him who self-sufficiently arrogated it, and exercised unlimited power. Had the captain been required by law to be governed by the opinion of the surgeon in all things relating to health, he would not have perpetrated so many acts directly in opposition to the most familiar laws of hygiene. Had a competent surgeon been associated with him, possessing rank enough to give official authority to his opinions, it may be safely conjectured there would have been no epidemic fever on board the Macedonian while at Havana, which at the time was remarkably healthy. It is stated that her cleanliness contrasted favourably with the condition of English and French ships of war in the harbour, on board of which, it is presumed, no disease prevailed, because it is not mentioned. Further, the conclusions of the court would have been different, had it included surgeons among its members. It laboured to establish a foregone opinion of the captain, that a foul condition of the hold of the ship was sufficient to account for the prevalence of malignant fever in the vessel, and, consequently, to censure those who supervised her outfit at Boston. The whole investigation depended for

its successful results on a competent knowledge of the causes which influence health and life; yet the government presumed that this knowledge was possessed in a sufficient degree by captains, and thus it virtually preferred the opinions of men on an intricate professional subject who had never studied it, to the opinions of those whose vocation required them to be acquainted with it. The policy was surely bad, for men should not be held either officially or morally responsible, when required to utter opinions on matters which their profession does not embrace. Who would not rather trust a vessel to the guidance of even an imperfectly educated seaman on the ocean, than to the control of the most learned jurist who had never been out of sight of land?

The history of the blockading squadron in the Gulf of Mexico, during the summer of 1846, leads to a suspicion that the prevalence of scurvy, on board the frigate Raritan especially, was in a measure due to contempt of medical opinion at Washington. The newspapers of the time censured the medical officers of the squadron. The New York Morning Express, of November 28, contains the following article:—

"The last number of the London Medical Times, in an article on the reappearance of the scurvy, and alluding to its having been on board the Raritan, Potomac, and Falmouth, while operating in the Gulf, says, 'the American nation should demand the dismissal of the medical staff connected with' our naval service."

But it is clearly shown, in the report of Dr. Foltz on the subject, published in "The American Journal of the Medical Sciences," for January, 1848, that the censure is not merited. Among the causes of disease on board of the Raritan was imperfect ventilation, attributable entirely to the architectural plan upon which the vessel was built; but the modifications of certain internal arrangements, recommended by the surgeon, to remedy this defect in part, were not approved.

Though not printed, other instances might be adduced in corroboration of the inferences deducible from the case of the Macedonian above related.

The writer has been told that the steam-engineers in the navy are often embarrassed through interference in the engine-room by such of the line lieutenants as are very im-

perfectly acquainted with the theory and working of steam-engines. On board of a steamer, no other than an engineer should be permitted to meddle in the details of a working engine; he alone should be held responsible for the condition of the machine. In the English navy, the chief engineer is responsible for the condition of the engine room, and for the decorum of assistant engineers and stokers, all of whom are under his immediate control.

"We mean that fundamental law, which looks exclusively to the most efficient means of accomplishing the purposes of the government, and which accordingly confers rank and authority not relatively to individual ambition, but relatively to this end. It does not pause to question *the personal wishes* of surgeons and pursers, but *places them in subjection* to the *executive* lieutenant, because the *purposes* of the law and *discipline require* it—it does *not sink them* below this level, and *place them under the orders* of the other lieutenants, because the purposes of the law and discipline *do not* require it."—*Pamphlet No.* 1.

It has been shown, the law does not discriminate between lieutenants in a ship by assigning a different kind of duty and a wider range of power to the senior or first lieutenant. The act of 1800, the only law of unquestioned authority in the navy, is silent on the subject; the section which distributes prize-money does not assign a greater share to the senior lieutenant than to others; and if the mode of reasoning adopted by our authors be admitted, the rank and, consequently, the authority and duties of all lieutenants are alike. Therefore, to attain "the purposes of the government" in establishing a navy, surgeons and pursers should be placed below all lieutenants, although "the purposes of law and discipline do not require it." The questioned and questionable code of commissioners' regulations sustains this view, as already shown. The only printed regulations of the Navy Department which recognise an "executive officer" or "first lieutenant," are the General Orders (page 20), which our author terms "executive interruptions," and more than intimates his opinion that they are based on an unconstitutional assumption of power.

But the practice now is to call the senior lieutenant in a ship, "executive officer," to excuse him from keeping watch, and require of him laborious duties, which, in strict accordance with the letter of the law, devolve upon the captain;

but the arrangement which gives him a deputy, relieves him from the necessity of attending to details. Whether there is an *absolute necessity* in the navy for the office of "first lieutenant," or "executive officer," beyond the provision (quoted above from the "Blue Book") which makes the senior lieutenant in a ship "commanding officer," during any brief or temporary absence of the captain, is a question upon which there may be a difference of opinion. Though the question is debatable, it is not the writer's design to discuss it; but, if absolutely necessary, or even simply expedient, it would be well if the office were recognised by law, because it would render the duties of "executive officer" uniform in all ships, which is not now the case, some captains delegating less and others more of his duty to the senior lieutenant.

It is not admitted, nevertheless, that there is any conclusive reason for placing surgeons and pursers in subjection to the executive lieutenant; the assertion to the contrary notwithstanding that "the purposes of the law and discipline require it." It is enough to "place them in subjection" to the captain for all purposes of naval discipline and efficiency.

"If the *imperative necessity* of this inferiority of station, in all that relates to military matters, *really exist*, on what pretext are pursers and surgeons banding together to escape from it and rise above it, without first pointing out the means of *obviating the necessity* itself? Why are they straining every nerve and using every influence in *their inordinate desire for power* and *place*, when they cannot accomplish their end, without breaking through those *salutary restraints* which the *experience of the navies throughout the world* have imposed? It is surely incumbent upon them to show that some *public* good can be achieved, apart from individual aggrandizement, before they seek to change the old beacons that have hitherto successfully guided us: they ought to make it *manifest beyond all doubt*, that the harmony and efficiency of the service will be ultimately improved, or that some other attainable general benefit is expected to follow, before they attempt a revolution in the habits, opinions, usages, and rights, that *have always prevailed*, a revolution that arrays one class against the other in angry strife and discord, and opens hourly new questions of dispute about *precedence* and *authority*."—*Pamphlet, No.* 1.

No "imperative necessity" "really exists" for confining surgeons and pursers to the "inferiority of station" indicated by our author; it would be absurd to attempt to obviate that which has no palpable existence. "The experience

of the navies throughout the world" is no doubt very great, and embraces a strong body of evidence of one kind or another on many points; but as that experience has been acquired under hereditary governments, autocratic or monarchial, its weight of authority is not perfectly applicable in fashioning the institutions of a republic, even if that evidence were in detail before us. It is believed the national legislature is sufficiently apt in comprehending the broad principles of republican government; and it will never consent to incorporate any other than their spirit in republican institutions, whether civil or military. While conferring upon its various functionaries all power that is clearly needful to the discharge of their duties, Congress will not confide unlimited power to any. If the staff corps are "banding together" for any purpose, it is not to escape from the performance of any act within the limits of duty, but to overcome the depressing influence of those whose acts have long exhibited, what seems to be "inordinate desire for power and place;" and to break through "restraints" which are neither useful nor salutary to the public service. Although, in the opinion of our author, the experience of the navies of the world may have sanctified those "restraints," they are fast yielding, in those very navies, to the increasing intelligence of the people, and the power they are exercising over thrones, and even over despotism. But even the example of those navies, so confidently referred to, is against the conclusion our author has endeavoured to establish, namely, that rank and authority "are *not* given to the civil branch:" for in the navy of Great Britain surgeons and pursers have a defined rank and authority. In a joint letter addressed in March last to the Hon. William Ballard Preston, lately Secretary of the Navy, more than 140 gentlemen of the line invite attention to this fact; and indicate rather than express an opinion, that the General Orders assimilating rank should be revoked, although they say "we" were willing "to extend every mark of courtesy to a most deserving body of our brother officers." The communication alluded to has been placed before the naval committees of Congress.

Our author thinks no "public good" can result from the establishment of assimilated rank. Whatever tends to preserve peace and harmony in a community, or to protect its members in their property and character, or to guard them

against the exercise of illegal force or power, is a public good; and in this sense alone, the establishment of an assimilated rank by law would be a public good in the navy, because it would probably set at rest, in practice at least, all differences of opinion on precedence. But in a more special point of view, the writer believes an assimilated rank for surgeons in the navy would be beneficial to the service. The language of a British author who died in 1827, in the 77th year of his age, expresses clear notions on the subject. "The rank accorded to the medical officer does not injure or even interfere with the military. Rank is of no intrinsic value in itself to a man of science; but the opinion connected with the rank makes an impression on the soldier, which aids materially in giving force to medical authority, and consequently to medical utility. The soldier is accustomed to view things superficially, to estimate and judge by the exterior only; for, as he is not permitted to reason and resolve to principle, the science of the medical art is less regarded by him, than the authority of the rank under which it is applied to him. For this reason we venture to assert, that if the medical officer stand in what may be called a degraded rank in military estimation, the usefulness of the medical art will lose much of its value as applied to a military subject. The matter now under view is of some consequence to the interests of the army; and it is not, it is presumed, beneath the dignity of the higher powers of the state to consider it, if it be held to be a national concern to arrange the various departments of the army on a basis of justice and truth. Those who hold high official stations, and particularly those who wield the sword, are strongly disposed to depress men of science; and, among others, the medical department (which is a department of science), has been degraded of late years, at least debarred from rising to a rank suitable to its importance. But, be this as it may, the history of our most brilliant campaigns will not permit our most celebrated generals to say that nothing is due to the medical staff, *where that staff is permitted to act according to its judgment.* The latter periods of the Peninsular war bear irrefragable testimony to medical value."*

* Jackson on the Formation, Discipline, and Economy of Armies. London, 1845.

Even in civil life, a certain position in society, or the insignia of it, consisting chiefly of dress and equipage, seem to be necessary to give authority to the advice of the physician. This is so well understood that even pretenders, it is believed, are indebted for extensive practice in large cities, to visiting their patients in a showy four-wheeled vehicle, drawn by a pair of horses, driven by a coachman in livery, instead of going their daily rounds in an unpretending gig. The science of medicine is rarely pursued successfully as a business without a considerable money-capital. Physicians have seldom *walked* into a lucrative practice. People do not expect to find one possessed of the wisdom and skill of a Sir Astley Cooper, or a Physick, or a Dupuytren, in a coat out at the elbows, trudging by the wayside in hob-nailed shoes; no stranger would confide in a physician who should present himself at the bedside unshaven, in soiled linen, coarsely and shabbily attired. The physician's advice is often valuable, and followed in proportion to the amount invested in his clothing, furniture, and "turn out," because they create a sort of visible authority which few patients fail to respect, and which still fewer are capable of justly appreciating. If, then, social position be necessary to give weight to the practitioner's advice, even among the intelligent and affluent, it may be conjectured, for analogous reasons, that the usefulness of a surgeon in a military community will bear some proportion to the degree of his rank, which is to him there, what social style and equipage are in private life.

Whatever tends to assist the surgeon, in the application of medical science to the preservation of health, and the cure of disease in the navy, also tends to increase the efficiency of the public service. This in itself is a public good.

"Let us now consider the other circumstances of inferiority, those which concern ceremonial and etiquette. As everything has its appropriate use, the formal observances of ceremony in military institutions are not without their value. They were appointed, not to gratify individual pride, though such may be an incidental consequence, but in part to serve as the distinguishing quality or badge of rank, and in part to invest state occasions with a certain degree of sober dignity and decorum. They constitute, in a general way, the 'pomp and circumstance' which forms the prestige of the service, and thus *captivate* and *impose* on the *imagination*, and *produce* a happy *moral* influence. So far as they are regarded as the insignia of the rank, it is evident

that the *civil class* can *claim no honours* beyond those which *belong to the rank* they hold with any more reason than they could claim the uniform, or any other outward and visible token of a higher grade: so far as they relate to public parades or festive occasions, we see no sound reasons for assigning them an inferior place."—*Pamphlet No.* 1.

The meaning of our author seems to be, that the observances of ceremony in military institutions belong alone to rank, and as the "pomp and circumstance" they constitute form the prestige of the service, which captivates and imposes on the imagination, thus producing a happy moral influence over subordinates, it should be restricted to it. He has told us, in another place, rank has not been given to the staff corps, consequently they require none of the insignia to designate what they do not possess; he truly says, "the civil class can claim no honours beyond those which belong to the rank they hold."

The uniform dress given to the members of military communities was devised "not to gratify individual pride, though such may be an incidental consequence," but as a mark to characterize the grade to which each belongs. To borrow the terms used by naturalists in classification, for illustration; —in the military kingdom, the *branch* navy is designated by peculiar buttons; the *family* of officers is characterized by swords at the side; the *tribe* of commission officers, is known by epaulets on the shoulders, and the several *genera* of this *tribe* may be recognised by some characteristic difference in material, form, size, or ornament of the epaulets. Such is briefly the long-existing system of military badges, which indicate to all members of the military community the kind of ceremonial of respect with which the presence of each is to be acknowledged. For this reason, these badges are equally important to all, whether of the line or staff. After the general orders which confer assimilated rank were promulgated, distinctive epaulets were added to the uniform of medical officers and pursers, so that, still to borrow natural history terms, the badges they wear clearly mark them as of the *tribe* of commission officers; of the *genus* commander or lieutenant; *species* surgeon or purser, &c. But some gentlemen of the line, supposing, perhaps, that epaulets served to gratify individual pride in medical officers and pursers, rather than any other purpose; and believing too, that the multi-

plication of these ornaments in the service tended to lessen the "pomp and circumstance," which captivated and imposed on the imagination when they were worn only in the *line*, requested the Secretary of the Navy, they might be excused from wearing them any longer, suggesting indirectly that epaulets should be thereafter worn only by lieutenants of the line, medical officers, and pursers. The following extract from a communication signed "An Old Captain," published in the "National Intelligencer" at the time, is a graphic picture of what was conjectured would be the effect of this innovation, and is also indicative of the kind of feeling which existed on the subject.

"If these borrowed plumes be indispensable to *non-combatants* and inferior officers, if they are necessary to maintain their dignity and respectability in the navy, let them retain them by all means; and if they cannot be respected without them, I would even allow them to put one additional epaulet on each shoulder for every ten years' service; yes, they might cover their neck and shoulders as thickly with gold bullion as any New Zealand chief ever was with boar's teeth, if it would add *dignity* to the man, or skill to his profession. But at the same time that *non-combatants* and inferior officers of the navy are exalted, pray relieve the veterans of high rank from the pains and penalties imposed upon them by the annihilation of ancient and well-understood insignia of rank. It is no small matter or imaginary grievance to the captain of a man-of-war to be summoned on deck a half a dozen times a day to receive the captain of another ship, and when the visiter appears on deck, it is discovered that, instead of a captain, a junior lieutenant not out of his teens, or a doctor or purser, stands at the gangway, *dumbfounded;* and, if a man of real worth and merit, mortified in the extreme that he should have been the cause of such unmerited parade and formality. All who have been thus duped retire from the deck in no very pleasant mood with themselves or any body else. Just then, and perhaps while descanting upon the absurdity of the complained of innovations, a message is again received from the quarter-deck that Captain somebody is coming alongside. Well, it is said, a burnt child dreads the fire; and, like the fable of the shepherd boy and the wolf, the officers so often duped by these deceptive insignia remain quietly at their dinner or vocation below, till, lo! a midshipman in a state of great trepidation, bawls out, as he descends the ladder, *Captain* ——— is on deck. The captain, unless he happens to be a very considerate gentleman, of great equanimity of temper, rushes on deck, in no very amiable mood, to receive and apologize to his visiter for the cold and disrespectful reception given him, and, in due time, if not on the spot, the first lieutenant gets it from the captain, the officer of the deck from the first lieutenant, the midshipman

from the officer of the deck, and, like as not, the poor quartermaster *gets a dozen lashes on his bare back*, with a cat-o'-nine-tails, and all because *non-combatants* and lieutenants of the navy now-a-days cannot maintain their dignity and respectability without being bedecked with two epaulets."

Both the formal request, and this very excellent *jeu-d'esprit*, failed to effect their purpose: of course no quartermaster would be flogged for not distinguishing between the several kinds of epaulets. Yet, it might be well to consider whether the prayer of the petitioners should not be granted so far, at least, as to give a much more simple uniform to the higher grades, both of the line and staff, than at present prescribed. It may be safely conjectured that no surgeon or purser of years is pleased to wear a showy uniform, however strenuously he might contend, on principle, to have assigned him a uniform dress, corresponding in its badges with those with whom he may be assimilated in rank.

A recent pamphlet, entitled "A Few Thoughts upon Rank in the Navy,"* attributed to a junior lieutenant, refers to uniform in the following manner:

"Dress is one of those adventitious aids which, like etiquette, is found in military life to be an available means of increasing respect for authority. For any other purpose than to give weight to his official position, the man who should *walk in our public thoroughfares* in the *garb of a navy lieutenant*, would be *justly looked upon as a harlequin*. It is the end above, which gives any dignity or respectability to the custom of covering our necessary clothing with patches of gold lace and stripes of bullion. Now in practice, it has always been found necessary to vary the dress of officers to whom different degrees of power have been delegated, so that the governed may know at a glance the character of the personage who challenges their obedience, and may pay those outward marks of deference due to the office. The *mind of man*, it would seem, *can conceive no object* for which *a surgeon* or *purser need invest himself* with these *trappings, cumbersome in themselves, not beautiful* to the eye, and, *apart from their uses*, the most absurd things imaginable. If the thing were stated for the first time to a gentleman not conversant with naval affairs, that *civil* officers wore all the outward badges of military rank, it would excite the greatest possible wonder. Most persons, however, even in the navy, say that this *is* a small matter, and we will not dwell long upon it."

* 8vo. pp. 18. Philadelphia, 1850.

After stating the dates of changes made in naval uniform since 1830, the author continues:

"But these same glittering badges of military authority *now* seemed to have *charms* for the *civilians* of the navy. This was sufficient—an order from the Navy Department bestows all which is asked, and we now see the captain who, in 1815, captured the Cyane and Levant, *side by side* with the youth who yesterday left one of our medical schools, *alike rejoicing*, in their *brilliant pair* of swabs. Indeed, so absurd has become the appearance presented by the array of *non-combatant* military insignia, that some of our veterans have applied for leave to dispense with their epaulets altogether, and have got rid of some of their lace. If they succeed in the alteration which they wish, of course none of us can submit to the degradation of epaulets. Now how utterly puerile and unmanly *all this* seems. What we aver is, that there is no position in which a surgeon or purser in the navy can be placed, where there will be any occasion *for him* to be clad in *any other dress* than that which the President of the United States wears *in the city* of Washington. Their duties are *purely civil*—they have not one single iota of military authority which requires the factitious aid of dress, and will be always just as much respected in *a black coat* as in a lieutenant's uniform. The truth of this *is evident* from the circumstance, that the chaplains *always wear black*, and are always treated [therefore?] with the greatest consideration. We hear no complaints from them—on the contrary, they bear *willing witness* to the *urbanity* and *courtesy* with which they have been treated by officers. And this, too, *without uniform** or rank; for no general order has yet *ennobled* them."

* Navy Uniform Regulation.—"*Chaplain's Coat.*—To be of dark *blue* cloth, with rolling-collar of black velvet, in other respects like the undress coat of the lieutenants." 1841.

"Chaplains shall wear a *black* coat, with black velvet collar and the navy button now in use. (They need not, however, provide themselves with new coats until those they now have are worn out.) While performing religious services on the Sabbath, or on other occasions, on board vessels of war or at yards and shore stations, they shall wear the black silk gown usually worn by clergymen." January 20, 1844.

"The Regulation of the 20th January, 1844, prescribing a uniform for chaplains in the navy, is so modified, that, in performing divine service, the chaplain may, in his discretion, wear a black gown, a plain black coat, or the uniform coat prescribed by that regulation." April 23, 1844.

"*All* commissioned officers in the navy *may* wear a double-breasted blue frock-coat with rolling-collar, nine buttons on each side, and the usual number of buttons on the cuffs and folds and shoulder-straps, according to their respective grades."

Some chaplains avail themselves of this permission.

To this is added the following, in a note :—

"By the present uniform the most ridiculous mistakes are *liable to occur*, as *seven* different grades of officers wear epaulets, without sufficient distinction in other parts of the dress to prevent confusion. If it be said, that in giving lieutenants two epaulets, we follow the fashion of the English navy, we reply that by continuing the old style of one only, we should have followed the example of the Spanish; and if foreign precedents are necessary, we consider the Spaniard as good authority in matters of dress and etiquette, as are the English in sound conservative views of naval discipline and efficiency."

This is a tolerably fair specimen of "A Few Thoughts upon Rank in the Navy," which is noticed simply to render the literary history of this controversy more complete. As the pamphlet urges views similar to those presented in pamphlet No. 1, it does not seem necessary to occupy space with any additional quotations from it. This gentleman strongly deprecates the idea of admitting to seats in a court-martial, gentlemen "whose business, and only business, it is to heal the sick;" rather than see this, he says, "we trust the American navy may be disbanded," &c.

It is seemingly incongruous to bedeck a physician in epaulets; but this ornament or badge is really not less in harmony with the peaceful and benevolent nature of medical science, than the sword, gold embroidery, gold lace, cocked hat, and navy buttons, which have been long worn by medical officers in the navy, as well as in the army, without exciting condemnatory remarks by military men. The incongruity disappears, in a measure at least, on learning that such badges are not imposed on medical officers because they are physicians, but because they are members of a military community, and therefore required to conform to its fashions and laws. The same is true of military chaplains, who by the regulations on the subject, not very long since, wore *blue* coats, with navy buttons. One who could treat indecorously a chaplain, knowing his office, might be suspected of being capable of impoliteness towards ladies: both are alike entitled to special respect on the ground that good breeding has determined, they cannot either give or reciprocate an affront under any provocation.

PRACTICAL INCONVENIENCE RESULTING FROM ASSIMILATED RANK.

"The object of this paper has been rather to discuss general principles than to descend into details. We will therefore forbear noticing more particularly *the practical inconveniences* and unhappy controversies into which the recent regulations have plunged us. It is believed these rules of assimilation [page 20], pernicious in themselves, have been productive of more serious evils from the latitude with which they have been construed. It is thought *they never contemplated an officer's* being tried for *disrespect to the surgeon* as his superior, or a purser declining to superintend the passing of powder, his usual office at quarters, or of any other of the equally novel and startling events that have of late interrupted the harmony of the service. There is every reason to believe that notwithstanding *military authority is denied* in explicit terms to the class for whose benefit those regulations were framed, it has been ingeniously sought so to interpret them as to favour the claim to the exercise of authority of some kind, though *what other than military authority can exist in military institutions we are totally at a loss to conjecture.* It is a general conviction, that the present combined, and systematic, and zealous efforts of the civil class are directed to objects more substantial and positive than the empty honours of ceremony and etiquette; to meet and defeat their purposes we have endeavoured to show that they already possess all the rank and authority that are needful for the effectual discharge of their duties, or that the convenience or necessities of the service require."—*Pamphlet No.* 1.

"The assertion that no difficulty has thus far been occasioned by the assimilation of rank is an error, as many cases which have occurred abroad will prove. We know at least of one instance which occurred in the gulf squadron, and *are aware of a court-martial in the Pacific, which found an acting master guilty of disrespect to his superior officer, when said claim to superiority was based upon the assimilation of rank.*"—*Pamphlet No.* 2.

The writer has reason to believe that the "acting master," found guilty by a court-martial for disrespect to a surgeon, is the author of Pamphlet No. 2, and, therefore, he has strong grounds for being "aware" of the case. The court was constituted of *line* officers exclusively, and the accused is also of the *line.* It is presumed, therefore, if there was any disposition to favour either the surgeon or acting master in the court, the accused would have been most likely to benefit by it. The author of the above paragraph does not question the justice of the decision or the sentence to be reprimanded and dismissed the squadron, but complains of the rule under which the verdict was found. The evidence of disrespect

must have been very conclusive, or our author would have appealed. To unprejudiced minds it will most probably appear that this case alone is a cogent argument in behalf of the General Order conferring assimilated rank. The inference is clear, that in the opinion of our author, a *staff* officer could not be subject to "disrespect," were it not for assimilation of rank; and in this opinion he is probably correct, because the solely unquestioned statute in the navy (the act of 1800) provides penalty only for disrespect to a "superior officer;" and if the General Order had not defined it, the court might have dismissed the charge, on the ground that the statute does not explicitly assign any rank to surgeons, and therefore the superiority of the surgeon could not be ascertained. As far as this case bears upon the assertion of our authors, that assimilation of rank causes inconvenience, it is against their opinion; and the finding of the court, as well as approval of it, and execution of the sentence by the commander-in-chief of the squadron, is conclusive evidence that all *line* officers in the navy do not agree with them in the notion that the "General Orders" (p. 20) are illegal.

All the other cases of "practical inconvenience" resulting from assimilated rank, referred to by the several pamphleteers, are similar in character. In fact the disagreements in question are not attributable to assimilated rank, as supposed; but to reluctance on the part of certain line officers to fairly construe the General Orders conferring it, or to yield obedience to them in accordance with a plain construction. The fact that legal authority is sometimes openly resisted, is not a conclusive reason for the abrogation of law and authority.

All the cases brought forward to prove the "practical inconvenience" of assimilated rank, will be found, on fair examination, to have been cases of disobedience of the General Orders of the Secretary of the Navy, which cannot be palliated by alleging, directly or indirectly, that these orders could not be obeyed without palpable injury to public interests, connected with the naval service. Allegations of such a character are at once negatived, by the undeniable fact, that in all cases in which those General Orders have been obeyed in spirit and to the letter, the public good has in no respect suffered.

In opposition may be arrayed the declaration of a number

of highly respectable *line* officers that the assimilated rank given has been "at the expense of the discipline and harmony of the service, and of the rights of officers who entered the service long before them." This declaration is made jointly by 25 captains, 43 commanders, and 79 lieutenants. These gentlemen have signed a general letter, dated, "Philadelphia, March, 1850," and addressed "To the Hon. Wm. Ballard Preston, Secretary of the Navy," in which they ask attention "to the ensuing remarks and subjoined communication."* The whole is printed, and has been in the hands of members of the naval committees of both Houses of Congress. It consists almost entirely of assertions; it contains no statement or argument which has not been fairly controverted in a printed "reply."† Therefore the writer proposes to examine how far it should be regarded as testimony, to prove that assimilated rank is "at the expense of discipline."

Of the 68 captains in the navy, 25 have their names appended as vouching for this statement; but of the 25 no less than 12 have not been at sea since the orders in question were issued. Of these 12, one has not been at sea since 1807, and only one of them since 1845, the year prior to the General Order of August 31, 1846.

Of 97 commanders, the names of 43 vouch for the statement; but of these 15 have not been at sea since the General Order was promulgated.

Of 327 lieutenants, 79 have their names appended to the letter; of this number 10 have not been at sea since 1846, and 14 are on what may be regarded as staff duty.

It is believed that many line officers have declined signing the paper.

In all probability, those gentlemen who have not been attached to sea-going vessels since 1845 have not had an opportunity to know, from their own observation, anything on this point; and added the influence of their names at the request of their friends, upon whom they of course relied. Therefore the testimonials of at least 37 of the 147 would be ruled out in a court of law. But if no one of these witnesses was ques-

* Assimilated Rank in the Navy, its Injurious Operation upon the Discipline, Harmony, and General Good of the Naval Service. 8vo. pp. 13.

† Reply to a pamphlet on the subject of "Assimilated Rank," referred to in a memorial submitted to the Secretary by sundry line officers of the navy, dated March, 1850.

tioned as to his competency to testify, still they detail no case in corroboration of their statement, that assimilated rank is at the expense of the discipline of the service. They allude to one case, and to only one under the General Orders, which they characterize as "vague, indefinite, and impracticable"—"involving a military solecism without parallel, as recently exhibited in the squadron on the coast of Africa."

This case was simply one of disobedience on the part of a lieutenant who refused to yield *precedence* to a purser who was his senior, in accordance with the General Order, both being of a mixed board, appointed to *inspect provisions*, a duty more german to the staff than to the line. Had the lieutenant signed the report of the board *below* the purser, it is difficult to conjecture in what manner the discipline of the service, or the public good, could have been impaired. The Secretary of the Navy, to whom the case was referred, had "no doubt that Lieutenant Reid assumed a precedence over Purser Heiskell directly in contravention of the regulation."*

The case of Purser F——, which occurred in the Pacific, is of a similar character: he complains that the General Order of May 27, 1847, was disregarded in not giving him due precedence, in orders assigning him to duty on mixed boards for the inspection of provisions, &c.

Under a notion that obedience to the General Order is impracticable, the commodore avoided compliance with it. He argued the subject in kindly terms, and shows he has given some attention to the principles of military organization. He recognises "regular officers of the line;" but alludes to the staff under the name of "non-combatants,"† a term which seems to be inappropriate to designate those who supervise the supply of powder from the magazine to the battery during battle.

Philologists might find amusement in tracing the origin of this term in the navy of the United States. It is not sanctioned by use in the Queen's Regulations (1844), nor in the Commissioners Regulations (1818). To designate as a *non-combatant* any member of a military organization, the very purpose of which is battle, seems inconsistent; if members of

* See Appendix. Letter of Honourable J. Y. Mason to Commodore Bolton.

† See Appendix. Correspondence between Commodore —— and Purser S—— F——.

the line of an army or navy were officially recognised as combatants, it might be conjectured it was not difficult to invent the name of non-combatants for the staff, but, as previously indicated, there are staff officers who do not necessarily engage in personal conflict, whose services are nevertheless indispensable to success in the field. There were combatants in the Olympic games who fought for a prize; but they were not military men. The word combat conveys the idea of dealing blows reciprocally between two individuals or a limited number of individuals, who are styled combatants. The members of a universal Peace Society should be literally non-combatants; but there is no analogy between them and the architects, who erect forts or bridges; or surveyors, who plot-out ground for camps or battle-fields, for the use of soldiers. Technically, there are no such terms in military science as combatant and non-combatant. The ancient Board of Navy Commissioners, in an official report, dated January, 1821, in answer to a question by a naval committee of Congress, whether the marine corps could be economically reorganized, say, it is "properly a *military* question, and as they have never turned their attention to *subjects of that nature*, they do not feel themselves competent to form a satisfactory opinion upon it."* It is probable, however, that military technology not being generally understood in the navy previous to that time, was really the cause of inventing the term non-combatant, the use of which might be dispensed with, simply because it may serve as the basis of invidious comparisons.

The commodore says truly, "no such rank or grade as executive officers is known to the law; every officer, whatever may be his grade or rank in the navy, charged with the performance of any particular duty, becomes an 'executive officer,' while he is executing the orders of a superior." The inference from the whole argument is that the operation of assimilated rank should not be impeded by an exception in favour of "commanding and executive officers" which was inserted, it is said, as a compromise to the views of the line, and designed to apply to those officers, only on board of the vessels to which they are attached, but when detached on any special duty, such as courts, processions, or mixed boards,

* American State Papers. Vol. Naval Affairs, p. 684.

ceasing to be for the time, "commanding and executive officers," their precedence would be determined by their lineal rank and the assimilated rank of the staff-officers associated with them in a procession, on a board, or on a court. Under this construction there would be little difficulty in complying with the order, the interpretation of which would have been less doubtful, had the words "to exercise military command," in the last paragraph, read, *to exercise command in the line of the navy.*

The "one instance which occurred in the Gulf Squadron," referred to by the author of Pamphlet No. 2, if the writer is not mistaken in the allusion, had no direct reference to assimilated rank, although the contrary is currently asserted. A difficulty or misunderstanding did occur between an eminent surgeon and the captain of the frigate ———, while attached to the Gulf Squadron in 1846–7. The writer is authorized to quote from a letter, dated January 18th, 1848, addressed by the surgeon to a member of the Naval Committee of the House of Representatives. He says: "The fact is, sir, that my difficulty with the late captain of the ———, was totally unconnected with the question of rank; though I have good reason to believe that he has laboured to favour that version of the story as the one that can be told with least discredit to himself.

"I charged Captain ——— officially (as it was my duty to do), with attempting to exercise capricious cruelty towards the sick of the ship. I conceive I have fully established my charge, and I have left it with the proofs, on record. Captain ———'s charges against me were *retaliatory*, and unsupported by any testimony but his own word. They were dismissed by the Secretary of the Navy, and do *not* stand against me. The Secretary, moreover, by a formal act, relieved my character from all imputed censure, and restored me, with honour, to my position in the squadron.

"Having consented, for the sake of peace and for the credit of the service, that no public investigation of this disreputable business should take place, I feel that it does not become me to agitate it anew, nor shall I do so, except in self-defence. I deposited at the time, in the Navy Department, a narrative of the facts as they occurred, with documentary proofs sufficient to sustain it: and those papers are of course easily accessible."

It is true that prior to the difficulty above referred to, the surgeon was assigned a position in a procession not in accordance with the General Order; but the commodore, to whom the surgeon afterwards mentioned the fact, seemed to think the slight thus put upon him was "accidental and not intentional," and, therefore, the discussion was dropped, with a promise that it should be a subject of conversation with the captain who acted as marshal or master of ceremonies on the occasion.

A recent case of difference of opinion on the true meaning of the General Orders, (page 20,) is referred to in the "communication" subjoined, to the general letter of officers of the line, in the following words:

"The author of this pamphlet,* on the first page speaks of the issue which has recently arisen on this question of rank, between a commander and a surgeon, which caused the reference by the Navy Department to the Attorney-General. That commander's plea is on file in the Department, and it will show how unauthorized is the idea conveyed, that any influence was sought to be used affecting the 'free and unbiassed exercise' of the surgeon's 'own deliberate judgment' serving on the Board alluded to. Nor has anything of the kind ever occurred in the navy to justify, in the slightest degree, his indignant eloquence about 'striking a fatal blow at one of the most important and vital principles of law and justice.' There is no disposition to have 'united judgment' merged and swallowed up in the one man principle, which is justly execrated as the root and most bitter fruit of rank despotism. The author of this 'Appeal' could not have conversed with the eminent surgeon who served on the Board in question, he could never have received from him any grounds for these rhapsodies."

These sentences suggest a suspicion that all the 147 signers of the letter did not examine this "subjoined communication" before appending their names, because it is not probable that some of them would not have discovered that Dr. Pinkney does not put forth any one of the ideas thus attributed to him. His words, fairly interpreted, do not admit of the construction given them by the author of the "subjoined communication." They are as follows:

* An Appeal to the Congress of the United States, concerning the Relative Rank of the Medical Officers and Pursers of the Navy. By Ninian Pinkney, Surgeon U. S. N. February, 1850. 8vo. pp. 10. George M'Gregor. Baltimore, 1850.

"Now, it will scarcely be denied, that the orders issued, conferred a relative rank that was to be enjoyed somewhere, at some time; that it was more than an unmeaning mockery, a mere empty shadow, for otherwise it would have been vain and useless to have inserted a clause, requiring the medical officer and purser to yield precedence to the commanding and executive officer. Why restrict the exercise of the right, if there be no place or time in which it could be exercised or enjoyed? Is it not perfectly clear, that from this *very clause*, that the claim to precedence must depend upon date of commission on all occasions not specified as prohibited by the regulations? If not, then the regulation is an absolute nullity. By our construction, this relative rank is to be enjoyed on all occasions, except when the medical officer and purser are called to do duty under the special command of the 'commanding and executive officer' of the ship, post, or station, to which said officers are attached. Who commands upon a board of discipline? Do not all sit as equals; their rank being alone determined by date of commission? Must not each member, by the very nature of the duties to be discharged, be left to *the free and unbiassed exercise of his own deliberate judgment?* A board resembles somewhat the juries of our land. Each interest is represented. The highest and most influential, in official dignity and power, can speak and act with no more authority, in the settlement of the question to be adjudicated, than the most insignificant of his official associates. For one moment, *recognise the existence* of 'commanding and executive officers' upon boards thus constituted, *and you strike a fatal blow* at one of the most important and vital principles of law and justice. Let independent action cease to be the ruling element, and the beauty and true glory of the system vanish. The united judgment would be merged and swallowed up in the one-man principle, which is justly execrated as the root and most bitter fruit of rank despotism. If the medical officer and purser were not permitted to enjoy the benefit of rank upon such a board as that convened for the Naval School at Annapolis, I would like to know how they could claim it on courts-martial, surveys, and visits of ceremony; and, if not in any of these, where? The fact is, upon such a construction of the regulation, they would be effectually shut out, on all occasions, and at all times. This would be indeed a taunting mockery. For what is rank, when it becomes a contraband thing, proscribed upon every spot, where it could be practically enjoyed?"

Those gentlemen have given a special application to Dr. Pinkney's general argument, in which there is nothing to justify the assertion that an "idea is conveyed, that any influence was sought to be used affecting the free and unbiassed exercise of the surgeon's own deliberate judgment." They have totally misconceived the statement of Dr. Pinkney; they would not intentionally misrepresent him.

In the autumn of 1849, a mixed board was assembled at Washington to devise rules for the Naval Academy at Annapolis. The board consisted of a captain, three commanders, a professor of mathematics, and a surgeon. The whole proceedings of the board were conducted in a spirit of entire kindness; every member of the board evincing a zealous desire to accomplish satisfactorily the duty assigned it. There was no assumption on the part of any gentleman present.

There was a difference of opinion between Commander U—— and Surgeon R——, as to precedence in signing the report of the board.

Commander U—— first argued that the signatures should be placed in the same sequence in which the members were named in the precept of the board.

Surgeon R—— was ready to agree to this, provided there were any evidence that the precept had been drawn in view of the question raised.

Commander U—— next claimed precedence on the ground that he was a "commanding officer."

Surgeon R—— objected that unless he could show he sat as a member, in virtue of his having been detailed from a command, the ground could not be admitted, because as a member of the board, he could not exercise authority as a commanding officer.

This difference of opinion was discussed, it is believed, in kind feeling; at any rate there was no manifestation to warrant a contrary impression. It was agreed to present the report without the signatures of those two gentlemen, and to refer the question for decision to the Hon. Secretary of the Navy, as an "amicable suit," in the following terms:

"Under the General Order from the Department, dated August 31, 1846 [page 20], which assigns an assimilated rank to medical officers, Commander U—— raises the question of precedence with Surgeon R—— in signing the report of a mixed board.

"The present commission of Commander U——, is dated February 27, 1847; that of Surgeon R——, April 4, 1831, and, consequently, his assimilated rank as commander, dates from April 4, 1843.

"The question raised is, which name is entitled to precedence."

It was agreed this question should be submitted without argument on either side. It was simply one of construction; what is the true import of the General Order of August 31, 1846?

Commander U—— filed a plea, in which he raises an additional issue, namely, as to the legality of the order itself.

His plea sets forth, first, "That no departmental regulation can deprive" him of his "rank as established and confirmed by *immemorial usage* since the first organization of the navy; that the department (for example) might, with the same propriety, and with equal justice, make" him "rank, after twelve years' service, with the junior post-captain, or a lieutenant, after a like term, to rank with commanders."

Second, "That the regulation of the department merely states that surgeons and pursers of twelve years' standing shall rank *with* commanders. In no act or regulation is it stated that a surgeon or purser can in any event or under any circumstances take precedence of a commander. The regulations, by giving them assimilated rank with commanders, places them above lieutenants, but not above commanders."

In the first argument, it is assumed that the effect of assimilated rank, is to infringe lineal rank; and as lineal rank has been established, the department has no authority to interfere with it by regulation or otherwise.

The same point was brought forward and argued by Commander Goldsborough in 1848. Walter Jones has shown that the question of executive authority in the premises has been settled, and is not open to discussion. He says:—

"For the nature and extent of the discretionary authority, purely incidental to, and inseparable from, the executive power, and not all dependent on any special legislation to regulate and direct the subordinate departments, both civil and military, in all the details of their administration, and the reasons of public policy and necessity, on which such authority rests, have all undergone judicial investigation the most careful and thorough, and have all received the impress of the highest judicial sanctions known to our jurisprudence.

"These judicial precedents have settled the nature and extent of this discretionary authority, not only as being incidental to 'the Executive power,' vested in the President himself, but as being alike incidental and necessary to the administration of the subordinate departments, by their respective heads, the Secretary of the Navy among

others, and without any special authority or direction, either from the President or Congress.

"Let us, in the first place, examine the nature and extent of the discretionary authority conceded by these decisions to the heads of the Executive Departments, such as the Secretaries of War and Navy; not as being derived from any special or direct sanction from superior authority, either executive or legislative, but as a merely incidental authority, inherent in the office of a head of department. Then the Secretary of the Navy was held entirely competent to appoint one of the regularly salaried clerks of the Department to perform the duties of paymaster of the Navy Pension fund, and to allow him an extra salary for such extra service; and in answer to the objection that there was no *law* authorizing the appointment of such paymaster, the Court said, 'The head of a Department is not bound to show a statutory provision for every authority exercised by him. No government could be administered on such principles. To attempt to regulate by law the minute movements of the complicated machine of government, would evince unpardonable ignorance on the subject.' (McDaniels' case, 7 Pet. Rep. 14. Fillebrown's case, ibid. 30.)

"So in General Ripley's case, (ibid. 25) the Secretary of War was held competent, of his own authority, and at his mere discretion, to assign a Brigadier-General of the Army, the extra duty of making certain disbursements (a Paymaster's duty); of preparing plans of fortifications (an Engineer's duty); and of forwarding supplies of provisions for troops (a Commissary's duty); and to allow him extra pay for the same. 'The amount of compensation for *military* services,' said the Court, 'may depend in some degree on the *regulations* of the War Department.' But the gallant General failed to establish his set-off merely because he had not produced 'either regulations of the War Department or instructions from the President,' imposing on him the duty and authorizing him to expect extra compensation for the performance of it.

"The authority sanctioned in those cases, though the circumstances on which it acted were not precisely the same as in the present case, must be held by the strictest analogy, not a whit less in quality or degree than the authority exercised by the Secretary of the Navy, with the President's sanction, in the present case.

"But if that were at all doubtful, into what insignificance does the order now in question dwindle, before the wide sweep of discretionary authority, we might say of Executive legislation, apparent in the successive volumes of *Army regulations* issued from the War Department at different times, from the year 1813 to 1825; and especially in the regulations of 1821 and 1825. Yet the Supreme Court say, in General Gratiot's case (4 How. 117, 118), that the Court has repeatedly decided that these regulations have the *force of law;* and that the particular regulation, then in question, is as obligatory as any of the rest. That was Article 67, Section 888, in the regulations of

1825; which, resting merely on *executive* authority and discretion, superadded to the *legally defined* duties of the Colonel of the *Engineer corps* (duties exclusively military in all their aspects and relations), the laborious duties of a civil engineer in superintending the execution of roads, canals, &c., carried on at the expense, and for the exclusive profit of *private individuals and corporations.* It might, perhaps, be inferred, with great show of reason, that if these offices of *civil* life could be imposed on *military* officers, at the discretion of the Executive, so might military functions be assigned, at the like discretion, to the civil staff of the army or navy; and, consequently, military rank imparted to them."*

If the General Order of August 31, 1846, is illegal, the question of precedence is of course solved, and medical officers are left without a position relatively to the line. Then, too, the General Order of May 27, 1847 (page 20), which assigns an assimilated rank to pursers, as well as the General Order of August 14th, 1846,† which creates a grade of masters in the line of promotion, are null and void.

The plea claims that lineal rank in the navy was established and confirmed by *immemorial* usage, and implies that, therefore, assimilated rank cannot be established by regulation.

Our common law is said to be derived from Great Britain. To be available in law, a custom must be sanctioned by general consent, and be undisputed for a very long period—certainly of not less than twenty years. Next, if it exists, its *legality* must be established; for, if it is not a good custom, it ought to be no longer used. A usage or custom to be *immemorial* in England must "have been used so long, that the memory of man runneth not to the contrary. So that if

* Observations on Certain Objections to the General Order of the Secretary of the Navy, conferring Assimilated Rank on the Surgeons and Pursers of the Navy. By Walter Jones. Washington: 1848.

† "GENERAL ORDER.—Vacancies in the grade of masters may be filled by the oldest passed-midshipmen who are worthy of advancement.

"The fitness of the senior passed-midshipmen for advancement may be established by an examination, or by the records of the Department, or by the testimony of the officers under whom they have served, or in such other manner as may be deemed proper. Those who may be found not suited to be advanced, may be placed on furlough or dropped from the list.

"The masters thus appointed will receive regular warrants, and will also remain in the line of promotion.

"GEORGE BANCROFT.

"Navy Department, August 14, 1846."

any one can show the beginning of it, it is no good custom [in law]. For which reason no custom can prevail against an express act of parliament, since the statute itself is a proof of a time when such custom did not exist." "Now time of memory hath been long ago ascertained by the law to commence from the beginning of the reign of Richard the First; and any custom may be destroyed by evidence of non-existence in any part of the long period from that time to the present."*

On these principles *immemorial* usage in the navy of the United States, cannot be established on this point, because the statutes exhibit the origin of the navy itself. Besides, if it is pretended that the existence of lineal rank is necessarily exclusive of assimilated rank and was established by custom, it has already been shown that the custom has been disputed since 1816 at least, and is, therefore, not a good custom. Indeed, the fact that the captain makes regulations peculiar to the ship he commands for the cruise, precludes the existence of almost any custom common to the entire navy.

But, even if it be demonstrated that lineal rank in the navy exists, both by law and usage, it is not a conclusive argument against the establishment of assimilated rank by act of the executive or legislative power. It is not admitted that any usage is paramount to legislative authority: change may be made either because it is clearly right, or simply because it is expedient.

Even if customs in the English navy were admitted to be indisputable authority in ours, those customs cannot be traced back to the reign of Richard I. Prior to the reign of Charles II., (1660,) "no state, ancient or modern, had, before that time, made a complete separation between the naval and military services." "Great fleets had been entrusted to the direction of Rupert and Monk; Rupert, who was renowned chiefly as a hot and daring cavalry officer; and Monk, when he wanted his ship to tack to larboard, moved the mirth of his crew by calling out, 'Wheel to the left.'"† About this period, in the reign of Charles II. a line was drawn, which may be regarded as the origin of the British navy. But even then, the English government not only

* Blackstone's Commentaries. The reign of Richard I. began about the year 1189.

† Macaulay's History of England.

continued to distribute high naval commands among landsmen, but selected for such commands landsmen who, even on land, could not safely have been put in any important trust. "In 1666, John Sheffield, Earl of Mulgrave, at seventeen years of age, volunteered to serve at sea against the Dutch. He passed six weeks on board, diverting himself as well as he could, in the society of some young libertines of rank, and then returned home to take command of a troop of horse. After this, he was never on the water till the year 1772, when he again joined the fleet, and was almost immediately appointed captain of a ship of eighty-four guns, reputed the finest in the navy."* It was impossible to trust the working of a ship to such novices, and, therefore, the direction of navigation was given to the master. This gave rise to wrangling; and the captain, confident in proportion to his ignorance, treated the master with lordly contempt. In those days, when naval usage began, the officers were uncouth in deportment. "There was roughness in their very good-nature; and their talk, where it was not made up of nautical phrases, was too commonly made up of oaths and curses. Such were the chiefs in whose rude school were formed those sturdy warriors from whom Smollet, in the next age, drew Lieutenant Bowling and Admiral Trunion. But it does not appear there was in the service of any of the Stuarts, a single naval officer such as, according to the notions of our times, a naval officer ought to be, that is to say, a man versed in the theory and practice of his calling, and steeled against all the dangers of battle and tempest, yet of cultivated mind and polished manners. There were gentlemen and there were seamen in the navy of Charles II. But the seamen were not gentlemen, and the gentlemen were not seamen."†

From that period to the present, the manner of doing almost everything in the English navy has changed, and there has been a steady, though slow, improvement in the condition of all in the service, partaking somewhat of the nature of the condition of affairs on shore. The spirit of the age is in favour of amelioration and improvement everywhere, and as intelligence becomes more universal on land, it will extend its influence over nautical affairs, and nothing

* Macaulay's History of England. † Ibid.

can be preserved, simply because it is a custom or usage, unless it can be demonstrated to be intrinsically right and proper.

To show the impropriety of the orders in question, it is asserted, in the first part of the plea, that to make a commander after twelve years' service rank with the junior captain, or to make a lieutenant after twelve years' service rank with a commander, would be as proper and just as to assimilate in rank with commanders, surgeons, and pursers, after twelve years' date of commission.

In a military organization the lineal grades of captain, commander, and lieutenant, cannot be classed with each other; they are necessarily successive in authority, and therefore, cannot be assimilated. Their mutual relations are determined by their *lineal* rank. It would be supererogatory at least, to confer assimilated rank on officers whose lineal rank already establishes their positions relatively to each other. There can be no necessity for classing in the same rank commanders and captains, or lieutenants and commanders; or assistant-surgeons and surgeons, because staff rank determines the mutual relations of the latter. But it is not a consequence, therefore, that it is either unjust or improper to confer an assimilated rank on staff officers whose grade and date of commission do not define their position relatively to line officers.

In the second plea, Commander U—— contends that the General Order (page 20), by giving surgeons "assimilated rank with commanders, places them *above* lieutenants, but not *above* commanders." If this construction be admitted here, then the same Order, which assimilates in rank "surgeons of less than twelve years with lieutenants," places them *above* masters, but not *above* lieutenants, and virtually gives them the same assimilated rank as passed assistant surgeons, who are placed by the General Order, "next after lieutenants." In a word, his reading of the Order seems to be thus: Surgeons of the fleet and surgeons of more than twelve years will rank *next after* commanders; surgeons of less than twelve years, *next after* lieutenants; passed assistant surgeons, *next after* lieutenants; or, surgeons of less than twelve years, and passed assistant surgeons will rank *next after* lieutenants, which is surely not the import the author of the order designed to convey.

The construction of the writer is that the words, "Surgeons of the fleet and surgeons of more than twelve years, will rank with commanders," mean, they shall rank with commanders according to date of commission under all circumstances, except where a commander is in legal command of a vessel, a post or station to which the surgeon is attached for duty, in which case the commander has precedence without regard to date. On mixed boards, surveys, and courts, no officer is, in fact, in command; the authority of the presiding officer being limited to directing the order of business, &c.

No additional remark is necessary to reply to the arguments recently advanced at Norfolk.*

No one will fail to perceive that the Department, overlooking the General Order, through inadvertence, in drawing the precept for the board, was the remote cause of the question of precedence being raised by the commander and surgeon on that occasion. Had the Secretary promptly decided the question, the controversy would have been ended; but being left open, it provoked argument and fostered a notion that the Department itself was indifferent whether its own order was obeyed or not, and it possibly encouraged those gentlemen who are opposed to placing the staff corps in the navy on any other footing than that of courtesy of the line, to make a *second* united effort to procure an unconditional revocation of the orders in question.

It has now been shown, in the opinion of the writer, that all the cases of alleged difficulty and inconvenience have arisen, not from assimilated rank in the navy, but from different modes of construing the orders which confer it, by staff officers and those of the line.

But the joint letter of the line officers states that assimilated rank in the army does not work well, and to sustain this statement, the last annual report (1849) of the Secretary of War is incorrectly construed and referred to: the report reads thus:—

"Another inconvenience resulting to the service is the anomalous position of officers holding staff commissions which confer rank. These officers are not considered by established usage as eligible to the command of troops, *unless specially assigned*, whilst at the same time

* See Appendix.

they *claim exemption from the orders of their juniors* in the line who succeed to such commands. This state of things is calculated to injure the service, by a suspension, for the time being, of the functions of staff officers in cases where *a junior line officer* exercises the command. To obviate which it is suggested that a law be enacted requiring officers of the general staff, serving with troops, to execute according to their respective duties, all orders, emanating from the senior officer of the line *which may relate to the discipline, police, and good order* of his command, and for which he alone is responsible."*

The joint "communication" says, "These officers, [he goes on to state], though not eligible by usage to command troops, unless specially assigned, have claimed *exemption* from the orders of *their superiors* [the Secretary says, *juniors in the line*] who succeed to such commands."

A little examination of the extract from the report of the Secretary of War shows that "officers holding staff commissions which confer rank," *may be assigned* to the command of troops, by order of the President or Secretary of War, but that those officers do not usually assume *command* in the line, although they may be of a higher grade or of a senior date to a line officer present in command, but they are unwilling that their *legal rank* should be suspended in effect, whenever, by accident or otherwise, a detachment from the army in which they serve falls under the command of a line officer who is below the grade of the line, to which the command of such detachment or post may rightfully belong. It may be a debatable question, whether the expedient suggested by the Secretary is just to staff officers, or whether, if it be just to make their rank dependent on a contingency of service, the plan proposed will remedy the inconvenience complained of. The Department may have a remedy without sacrificing the rank of the general staff, simply by respecting that rank when it details officers for detachments, always placing in command an officer of the line of sufficient grade and rank to remove every plea for insubordination by those staff officers it may associate with him. If a captain of the line be assigned to command a post, let the staff officers selected to serve under him be of an inferior grade or junior rank in the grade of captain. Respect for rank in the line always prevents the Department from

* Report of the Secretary of War. *November* 30, 1849.

requiring seniors of the line to serve under a junior: it is conjectured that a major of infantry, or of artillery is never required to serve under the command of a captain of cavalry, although that captain, in the opinion of the Department, were in every respect better qualified to command for the special service, than any major or lieutenant-colonel in the army. It may be presumption in the writer to suppose that the assimilated rank of staff officers should be as much respected in the Department as full lineal rank; and that no description of rank in a military organization should be contingent upon circumstances.

Among the general objections to assimilated rank in the navy, the following statement is made in the joint communication of line officers, which is quoted with approbation by the author of "A Few Thoughts upon Rank in the Navy;" but its relevancy to the subject is not clearly perceived by the writer.

"From the Resolution passed in July, 1777, that surgeons should *receive the pay of the* lieutenants of the ships to which they respectively belonged, and from the Act of March 30th, 1812, *making pursers commissioned officers*, the condition of both has been steadily ameliorated. The *establishment of medical boards of examination*, by which the corps chooses its own members; the creation of the grade of fleet surgeons; that of passed assistant surgeons; an increase of pay in 1828, seven years before the general navy pay bill was passed, when it was again largely augmented," &c. &c.

Were the gentlemen familiar with the general condition of medical education in the country, it is believed, they would perceive that all the benefits from the establishment of medical boards of examination accrue to themselves and the service, although the incidental effect is undoubtedly to increase the professional competency and respectability of the medical corps. But the establishment of these boards is due mainly to the enlightened efforts of the late Hon. Samuel L. Southard, while Secretary of the Navy. The following extracts are from his report on a naval peace establishment, January 24, 1824.

"No portion of the present system requires more amendment than the surgical department, in reference as well to the manner of admission into it as the government and payment of it. No one ought to

be appointed surgeon's mate until after a satisfactory examination, proving his competency, and no mate to be made a surgeon, until he has, by sufficient service and another examination, proved that he is worthy of promotion." * * * * "This system, while it renders justice to those who have performed duty, will, it is hoped, induce zeal in acquiring science, and secure the active and entire services of *skilful men, on whom so much of* the *comfort* and *success* of the navy depend. Guided by the reasoning applicable to the case, and by experiments made elsewhere, it is believed that a large saving may be effected by detailing one or more intelligent surgeons to purchase the medical stores and supplies, direct such as are fitted for the size of the vessel, and the nature and length of the voyage, and guard against ignorance and extravagance in that department."*

But prior to this period, the Hon. Smith Thompson, in December, 1819, recommended an increase of pay, and an establishment of grades for medical officers. He said:—

"Whether the compensation now allowed is sufficient to call into the service talents and learning which its importance demands, is respectfully submitted. A division of these officers into classes, according to the rate of the vessel in which they shall serve, it is thought would be beneficial, and is suggested for consideration; and this would afford a just standard by which to regulate their pay. The *designation of some officer* to be placed *at the head of this class of officers*, and who should have the immediate superintendence of this branch of the service, under regulations for that purpose to be established, it is believed, would contribute much to the benefit of the service."†

This may be regarded as the history of the circumstances which laid the foundation of the system of medical boards of examination; the several grades in the medical corps, and last, the creation of the Bureau of Medicine and Surgery. But in what manner these facts form an objection to the establishment of an assimilated rank for medical officers in the navy, is not perceived by the writer.

Another general argument against assimilated rank is the slow rate of promotion in the line. It is urged, for instance, that it is unjust to assimilate a surgeon or a purser, after twelve years' service, in rank with a commander, because an individual serves in the line say ten years as midshipman,

* American State Papers. Vol. Naval Affairs. † Ibid.

and twenty years as a lieutenant, before attaining the lineal grade of commander. Under this view it was proposed by certain line officers, as previously stated (page 20), that no surgeon should attain the assimilated rank of commander until twenty years after the date of his commission. If assimilated rank conferred authority to command in the line, or in any manner interfered with promotion in the line, the argument would have force. But if instead of twelve years, a purser were required to serve forty years before attaining assimilated rank as commander, such an arrangement would not accelerate promotion in the line; nor would promotion in the line be retarded, if the purser were appointed at once with assimilated rank, even as captain. For the sake of illustration an extreme case is suggested. Suppose, circumstances demand such increase in the grades of captain and commander as to require, by the rule of seniority, the promotion of the junior lieutenant in the navy and several of the older passed-midshipmen to the latter grade. It would be unavailing to urge against such promotion that, as the majority of captains are advanced in life and have been thirty-five years in the navy, it would be unjust to them to promote to the grade of commander, gentlemen who have been only ten years in the service. And supposing, too, that at the time of this extraordinary demand for officers in the higher grades, surgeons attained *assimilated rank* of commander after being twenty years in the navy, it would be absurd to argue, it would be unjust to them, to advance any gentleman of only ten years' service to the *lineal* rank of commander.

If assimilated rank as commander may be conferred on staff officers after twenty, or even thirty years' service, without injury to those possessed of lineal rank, it may be conferred at any period, even from the hour of appointment.

The author of "A Few Thoughts upon Rank in the Navy" objects to the admission of assistant surgeons to the ward-room mess on similar grounds. He says, "About the year 1844, an order was issued, that assistant surgeons were to be considered thereafter ward-room officers; thus putting a marked slight upon the whole of that deserving grade of officers, the passed-midshipmen, who, after serving a hard *apprenticeship of ten and twelve years*, were thrust coolly back, to make way for a new-fledged medical graduate."

The condition of assistant surgeons in the British navy

has, within a few years, attracted attention of the medical profession in England. The resistance of the admiralty to the measures proposed in behalf of medical officers has rendered it so difficult to fill the grade of assistant surgeons that it has been proposed to lower the standard of professional qualifications for admission into that grade. It is believed, such a course would not be generally approved in the navy of the United States.

The writer has endeavoured to show:

1. There are, in fact, no civil officers in the navy, or in any other military organization.
2. A navy may be divided into a *line* and *staff*, like an army.
3. The staff officers in the navy of the United States have no position relatively to the line, by law.
4. An assimilated rank may be advantageously established in the navy.
5. The office of executive officer, which is believed to be proper, does not exist, but should be established by law.
6. It is not necessary for the sake of naval discipline, or the public good, that staff officers should be in all things subordinate to such executive officer.
7. None but clearly understood terms of specific and appropriate meaning should be employed in legislation upon the subject.
8. The difficulties which have been attributed to the General Orders, conferring an assimilated rank in the navy, are, in fact, due either to a misconstruction of those orders, or to a disinclination to observe them, by officers of the line.

CONCLUDING REMARKS.

Those unacquainted with the details of military organization, may smile at a controversy on a question which seems to involve, merely the position of a name signed to a joint report. But it is deemed worthy of consideration, even in certain civil acts of the government, as may be inferred from the following extract from an official document:

"It is the practice of European governments, in drawing up their treaties with each other, to vary the order of naming the parties, and that of the signatures of the plenipotentiaries, in the counterparts of the same treaty, so that each party is first named, and its plenipoten-

tiary signs first, in the copy possessed and furnished by itself. And, in treaties drawn up between parties using different languages, and executed in both, each party is first named, and its plenipotentiary signs first, in the copy executed in his own language. This practice having, on several occasions, been accidentally or inadvertently omitted to be observed by the United States, the omission was followed by a disposition in the negotiators of certain Royal European governments to question its applicability to treaties between them and the United States. It became, therefore, proper to insist upon it, as was accordingly done with effect. As it is understood to involve a principle, it is to be considered as a standing instruction to the diplomatic agents of the United States to adhere to this practice, called '*alternate*,' in all cases where they shall have occasion to sign, in their public capacity, any treaty, convention, or other document, with the plenipotentiaries of other powers."

The following incident is pertinent to this point:—

"In 1844, the Hawaaian government issued a proclamation, establishing a code of etiquette, in which the following order of precedence was assigned the representatives of their respective nations:— 1. United States; 2. Great Britain; 3. France. Although some such arrangement was necessary in so jealous a community, its grave formality had rather a burlesque air; but the British government has imparted dignity to it by the following protest:—

"'With regard to the code of etiquette and diplomatic precedence, promulgated in July, 1844, her majesty's government regret the charge or act which gives a fixed and permanent preference to the United States over Great Britain, upon the plea of the prior recognition of the Sandwich Islands by the United States, and require that this clause be forthwith cancelled.

"'Her majesty's government further declares, that the Commissioner of the United States unless he be expressly designated in his commission as chargé d'affaires, is entitled to no precedence whatever over the British Consul-General at the Hawaaian Islands, under the regulations of the Congress of Vienna, whether the commissioner be entitled diplomatic commissioner or not. And I am commanded to insist that the question of precedence between the British and United States agent, shall, unless such agent be accredited chargé d'affaires, be determined by priority of presentation only.'"*

But the subject of assimilated rank embraces more than the precedence of a signature to a report.

* Wandering Sketches of People and Things in South America, Polynesia, California, and other places visited, during a cruise on board of the U. S. ships Levant, Portsmouth, and Savannah. By Wm. Maxwell Wood, M. D., Surgeon U. S. Navy. Carey & Hart. Philadelphia, 1849.

The staff of the army has been given somewhat in detail, (page 13,) and the nature of its duties has been described. A comparison with the navy in this respect is invited.

It may be asked in what do the duties of the quartermaster's department,—which embraces 1 brigadier-general, 2 colonels, 2 lieutenant-colonels, 7 majors, and 31 captains, by assimilated rank; of the commissariat, which includes 1 colonel, 1 lieutenant-colonel, 2 majors, and 4 captains; of the pay department, consisting of 1 colonel, 1 lieutenant-colonel, and 25 majors,—differ in a military point of view, or in the nature of their respective duties, from the corps of pursers in the navy, whose official functions embrace all those of the three army departments? Or, what is to be found in the nature of the duties of military architects and military surveyors, all based on scientific principles daily applied in civil life, which renders those officers more military than physicians employed in military service? The nature of the duties of engineers and topographical engineers is not less eminently civil than that of the duties of medical men. The engineers repair the damaged walls of a fort; the surgeons repair the injured health and limbs of the soldiers to defend it: the topographical engineers survey and plot-out camp-grounds and battle-fields; the surgeons judge of the healthiness of the sites in the one case, and economise life in the other, by saving from death those who, without medical aid, would perish of their wounds. A confidence in the presence of a competent medical staff, must contribute something to the moral support of the line, when on the battle-field. The object of the functions of all is a military result. Then why should an assimilated rank be freely accorded to those, and be given reluctantly to these: is it because the duties of the one are more palpable, more physical than those of the other class, and therefore more manifest to common observation?

It seems to be now conceded by the naval line, that an assimilated rank will be established; therefore the controversy is reduced to the question, what degrees of assimilated rank shall be allowed to the several staff-grades in the navy? On this question opinions are various. Those who contend for absolute supremacy of the line, believe that assimilated rank should be of the very lowest degree possible, to be above the grade of midshipmen; while others are willing to

concede as high a position as may be consistent with efficiency. There are many who, while they would cheerfully yield to medical officers the degrees of assimilated rank asked, object to pursers being placed on a level with them in this respect: and some have opposed the wishes of the medical corps, chiefly on the ground that whatever may be granted to medical officers is sure to be obtained afterwards by the pursers also, and, therefore, to defeat the latter, it is deemed sound policy to oppose the claims of medical officers; and there are some who can perceive that a controversy set up between the two corps on their respective pretensions, would be advantageous to the wishes of the opponents of both. The labour or difficulty of separating the opposing arguments from mere invidious assertions and conflicting prejudices, the earnest expression of which is in some measure due rather to the desire for victory in the controversy, than the positive value set upon the object in dispute, especially by the line, has been an obstacle to the demonstration of the truth, and consequently to the settlement of all points really involved in the discussion.

The medical officers, after having from time to time submitted the subject for discussion to the navy and to Congress, since 1816, without a final decision, have brought it to the notice of their professional brethren, and in the language of one of the pamphlets, have "excited the sons of Galen, from one end of the Union to the other." In this they have imitated the medical officers of the British navy, who finding the admiralty (a body resembling the ancient Board of Navy Commissioners,) disregarded the order in council, of January 23, 1805, which says, "the rank, pay, and designation, shall be the same for the medical officers of both land and sea forces," have brought the voice of the medical profession of England to their support. And sooner or later the effect will be seen.

For the details of assimilated rank in the British navy the joint "communication" of the line refers to the Queen's Regulations of 1844. The arrangement there is as follows:

"The director-general of the medical department of the navy, to rank with but after commodores.

"Medical inspectors of hospitals and fleets, to rank with but after captains under three years' seniority.

"Deputy medical inspectors of hospitals and fleets, to rank with but after commanders.

"Surgeons, to rank with but after lieutenants.

"Assistant-surgeons, to rank with but after mates."

The line of the British navy, as a general rule, is filled from titled and aristocratic families; and the staff chiefly, if not entirely, from the families of merchants and tradespeople. It is therefore probable that more or less of the caste feelings and prejudices of civil life are carried into the military service, and for this reason, the assimilated rank has been placed *as low as* possible, consistent with efficiency. An effort is being made to elevate the rank of assistant surgeons; and it will succeed, or the standard of medical qualifications will be reduced. Without a change in this respect vacancies in the grades of medical officers cannot be filled, unless the rank and condition of assistant surgeons in the British navy be improved.

Since the above was in type, "The Lancet," London, August 10, 1850, has been received. Under the head "Naval Assistant Surgeons" is the following:—"We publish the first instalment that is to be paid to the naval assistant surgeons, and we hope soon to be able to announce the liquidation of their claims in full. The position of the assistant surgeons, now serving, will be considerably improved; but the best men of the schools will not enter the service till all probationary, *alias* 'apprenticeship,' time be abolished."

"Circular No. 65, (Rank and Position of Assistant Surgeons,) Admiralty, July 17, 1850," addressed "to all Flag-officers and Commanding-officers of H. M. ships and vessels," is published in the Lancet. This order divides assistant surgeons of the royal navy into two classes. The first class consists of those who have completed *three* years' service, and have been examined and approved for promotion; it corresponds with the class of passed-assistant-surgeons in the navy of the United States, except that the latter serve *five* years prior to examination. The second class comprises all those who have not completed three years' service. Those of the first class rank next to naval instructors and mess with the ward-room officers, and are allowed cabins when the space on board will admit. Therefore, according to the Queen's Regulations, passed-assistant-surgeons in the

royal navy rank with but after lieutenants, and not after "mates," as heretofore.

The example afforded in the Queens' Regulations should not be a rule for the arrangement of our naval service. To imitate a foreign nation in any particular is an acknowledgment, so far, of the superiority of the nation imitated.

The medical officers of the navy ask to be placed on a level with medical officers of the army of the United States. The medical corps of the army consists of the following grades:

Colonel,	Surgeon-General.*
Major,	Surgeons.
Captain,	Assistant-surgeons of 5 years' standing.
First Lieutenant,	Assistant-surgeons.

The grades of the navy which correspond in relative rank with the above, are captain, commander, lieutenant, and master.

A clear definition of the position, each individual of a military organization is to occupy relatively to others, is essential to successful and harmonious operation. It is the basis of discipline.

To explain or illustrate the form of a law, to establish an assimilated rank for the several staff corps in the navy, the following is submitted as a suggestion for consideration.

The officers of the navy of the United States shall be divided into a line and staff.

The line shall be of the undermentioned denominations, and shall rank and take precedence in the following order: Captains, commanders, lieutenants, masters, &c., naming all grades of the line in proper order of succession. Right to command in the line shall be restricted to the above grades, and in the order named.

The staff shall consist of corps of the undermentioned denominations, and shall take precedence in the following order —medical corps, and others to be named in a proper sequence.

Assimilated rank of staff officers shall determine their subordination to officers of the line.

Assimilated rank of the medical staff shall be as follows:

Hospital and fleet surgeons shall rank as captains from date of appointment.

* The present surgeon-general holds the brevet rank of brigadier-general; but this belongs to him as a personal distinction, and does not pertain to his office as chief of a staff department.

Surgeons shall rank as commanders, passed assistant surgeons shall rank as lieutenants, and assistant surgeons shall rank as masters. But the assimilated rank thus established shall not confer a right to exercise command in the line of the naval service under any circumstances whatever. Precedence between staff officers and officers of the line, as well as between officers of the same grade, shall be determined by the dates of their respective commissions.

In a similar manner the assimilated rank of the corps of pursers, of chaplains, of engineers, &c., should be defined in detail.

It is believed a law framed in the above manner would place the medical staff of the navy on a footing with the medical staff of the army, and at the same time render it impossible for any member of the medical staff to legally interfere in the duties of line officers, or take away any just and necessary right to command. While officers seek assimilated rank, they do not desire to escape from proper subordination to line officers in command; but they claim that assimilated rank shall be operative on all mixed boards, surveys, courts, processions, &c., according to date of commission. If the knowledge of a surgeon, for example, renders him necessary in the constitution of a mixed board, for a special purpose, his military position should not be proscribed because he is a physician; but he should be presiding officer on such board if his commission be older than that of the other officers associated with him on the board, no matter whether they be of the line or staff.

In conclusion, the writer begs to assure the gentlemen whose remarks he has freely and fully quoted, that his object has been to bring fairly into view the various arguments on both sides of the question. Even in his attempts to controvert their opinions and views, which he believes are sincerely entertained, he disclaims all intention of discourtesy or unkindness towards them or those who think with them. He desires a decision which shall be in its provisions satisfactory to all reasonable and reflecting men, and at the same time conducive to the general discipline and efficiency of the naval service. If he has fallen into error of opinion or judgment, on any point, he will cheerfully, when it is demonstrated, amend or recant, as the case may require.

An appendix has been added, containing several papers at

length, in order that the whole subject might be fairly before the reader, and that he may see that those referred to in the text have been truly represented.

Finally, the writer begs, in taking leave of the subject, to adopt the sentiments of the concluding paragraph of Pamphlet No. 1. The author says :—"We cannot conclude without expressing a hope that what we have felt it our duty to say will not be taken in an unkind spirit by the class whose rights and aims we have so freely discussed. We are closely allied with many of them by long and eventful associations, full of those kindly sentiments and touching memories that dangers and hardships and the varied adventures of naval life, shared in common, are apt to inspire, and we are sure they will unite with us in the hope that, irrespective of our conflicting opinions and claims, the question of assimilated rank will be decided on the broad ground of equity and public utility."

PHILADELPHIA, *September*, 1850.

APPENDIX.

LETTER FROM THE SECRETARY OF THE NAVY TO COMMODORE BOLTON.

"Navy Department, August 4th, 1848.

"COM. WM. C. BOLTON,
Commanding U. S. Squadron,
Coast of Africa.

"SIR: Your despatch, No. 36, of the 30th December, 1847, with its enclosures, has been received and considered.

"The question raised by Lieutenant Reid, and the disposition made of it, have alike excited my surprise. The terms of the general order are explicit, and admit of no doubtful interpretation—and the conclusion at which you arrived, as well as the reasons given, admit of no other interpretation, than that you did not deem it expedient to enforce the general order of the Department.

"It is not possible to conceive a case in which the propriety of the order could be more apparent. In an inspection of *provisions*, a Sea Lieutenant claims precedence over a Purser of older standing in the service according to date of commission.

"There was no right of military command claimed by the Purser, and, if necessary, orders to the few men employed could as well have been given by the Lieutenant as a junior, as if he were the senior member of the board.

"The Department has no doubt that Lieutenant Reid assumed a precedence over Purser Heiskell, directly in contravention of the regulation; and on all future occasions, you will be pleased to execute the order according to its letter and spirit.

"I am, very respectfully, your obedient servant,

"J. Y. MASON."

OPINIONS OF THE MEDICAL PROFESSION IN THE UNITED STATES ON ASSIMILATED RANK.

At a meeting of the American Medical Association held at Baltimore, May 4, 1848, Dr. Cohen, of Baltimore, presented the following resolutions, which were adopted:

Resolved, That the American Medical Association regards with pride and satisfaction the services rendered, and the position main-

tained by that portion of their profession associated with the Military Department of the country; and, in consideration of the severe and arduous duties which the medical officers have performed—the risks and dangers to which they have been exposed, in the performance of those duties, during a period of warfare, and in an unhealthy climate—it is deemed just and proper, by this Association, that their services should receive from the Government an acknowledgment corresponding to that awarded their brother officers.

Resolved, That the members of this body hereby express their gratification with the position recently assigned the medical officers of the Navy; and that their influence will be used to sustain their Naval brethren in a position, alike due to them and the profession of which they are members.

Resolved, That a copy of these resolutions be forwarded to the Secretaries of War and of the Navy, through the Chiefs of the Medical Department of each service, and to the Chairman of the Military and Naval Committees in each House of Congress.

The following letter from the Secretary of the Navy was received after the adjournment of the Association:

"Navy Department, May 10, 1848.

"GENTLEMEN:

"I have the honour to acknowledge the receipt of your letter of the 5th instant, enclosing a copy of resolutions adopted by the 'American Medical Association,' at its late annual session in Baltimore.

"Appreciating the valuable services of the Medical Officers of the Navy, it gives me great pleasure to place on the records of the Department, the just and kind notice taken of them, by so enlightened and respectable a body of their fellow-citizens as the 'American Medical Association.'

"I am, very respectfully,
"Your obedient servant,
"J. Y. MASON.

"Messrs. Alfred Stille:—H. J. Bowditch,
"Secretaries 'American Medical Association.'"

At the annual meeting of the Pennsylvania State Medical Society, in Philadelphia, April 17, 1850, Dr. Jackson presented a series of resolutions relative to the assimilated rank of Medical officers in the Navy which was granted in 1846 by order of the Secretary of the Navy. In the Army, it is granted by a law of Congress. Many officers of the line in the Navy are now attempting to degrade Medical officers by depriving them of that assimilated rank. The following resolutions were adopted, and ordered to be forwarded to the War and Navy Departments, and to the Chairman of the War and Navy Committees in both Houses of Congress.

Resolved, That the State Medical Society of Pennsylvania cannot

regard with indifference the condition and position assigned to members of the profession, who are included in the military organizations of the country; and, therefore, regards with satisfaction the law which confirms the assimilated rank of Medical officers in the Army, previously conferred by the regulations of the War Department.

Resolved, That the members of the State Medical Society of Pennsylvania approve of the General Order issued by the Secretary of the Navy, August 31st, 1846, which assigns to Medical officers in the Navy an assimilated rank; and that their influence will be used to sustain their naval brethren in a position alike due to them and to the profession of which they are members.

Resolved, That inasmuch as the Medical officers of the Army have been assigned an assimilated rank by law, it is right and proper that the Medical officers of the Navy should also be assigned a definite rank by act of Congress, and this body, therefore, respectfully and earnestly invites the attention of the Senate and House of Representatives of the United States to the subject.

Resolved, That a copy of these resolutions be forwarded to the Secretaries of War, and of the Navy, through the chiefs of the Medical Department of each service; and to the Chairman of the Military and Naval Committees in each House of Congress.

PROCEEDINGS OF THE AMERICAN MEDICAL ASSOCIATION,

At the Third Annual Meeting, held at Cincinnati, May, 1850.

Dr. M'Guire, of Va., offered the following Preamble and Resolutions, which were unanimously adopted.

Whereas, in every properly organized community governed by military laws, every member of it should possess a recognised position; as no military organization can be efficient and complete without including a corps of competent surgeons; as the value of their services depends in a great measure upon the degree of respect accorded to them: the common interests of our country and of our profession demand, that the legal position of medical men in the army and navy, should be such as will secure them due consideration by their military associates, independently of a contingent courtesy; and as efforts are now being made to deprive medical officers in the navy of the relative position or assimilated rank conferred by a General Order of the Navy Department, it concerns the honour of the whole profession, to assist its members in the navy to obtain and secure an assimilated rank by law. Therefore,

Resolved, That the American Medical Association is gratified by the legislation of Congress which has conferred military rank on medical officers of the army, as it places them on an equality with officers of the several staff departments, and thus gives them a position to which the importance and dignity of the profession they represent entitles them; and it is earnestly desired that Congress, in its

present session, will extend the same privileges and immunities to medical officers in the navy.

Resolved, That the members of the American Medical Association will exert their influence to sustain the just pretensions of their brethren to an assimilated rank in the military organizations of the country; and they would view with feelings of deep mortification a proposition from any source to deprive the medical officers of the army of any of the privileges or powers secured to them by the act of Congress approved 11th February, 1847, a law which confers upon them a protective or conservative rank, and enables them to discharge their duties more effectually.

Resolved, That the members of the American Medical Association hear with regret that several naval commanders have disregarded the General Orders of the Navy Department, which place medical officers on an equality of rights and privileges, (except military command) with other officers in the navy; and they consider such resistance of the authority of the Secretary of the Navy an assumption which cannot be sanctioned by enlightened men of the present age, and should at once be put down by public opinion and by the authority of the government.

Resolved, That a definite position or assimilated rank, not inferior to that possessed by the medical staff of the army, should be assigned by law to medical officers in the navy, and therefore that the attention of the Senate and House of Representatives of the United States be, and is hereby invited to the subject.

Resolved, That copies of these resolutions be transmitted to the Secretaries of War and of the Navy, through the Chiefs of the Medical Department of each service and the presiding officer of the Senate and House of Representatives of the United States.

At the annual meeting of the Medical Society of New Jersey, held at New Brunswick, May 14th, 1850, the following Preamble and Resolutions were adopted, viz.:—

Whereas, it is a manifest duty, that organized medical bodies should exercise a proper influence for the protection of the rights of such regular members of the Profession as are necessarily detached from the great body of their brethren; and, whereas, many of the medical officers included in the military organizations of the country are placed in this condition; and whereas, we have heard with regret, that there is a disposition on the part of a portion of the naval service, to deprive medical men connected with that Department of the benefits arising from an assimilated rank, conferred by a General Order of a late Secretary of the Navy. Therefore be it

Resolved, That the "New Jersey State Medical Society" regards with much pleasure the successful efforts of the "Navy Boards," in raising the standard of literary and medical knowledge, for an admission to their ranks.

Resolved, That this Society is also much pleased to learn, that in their system of examinations *the Diplomas* of the schools (which are now but too easily obtained) are wholly disregarded; and that the moral character of the candidate, and his scientific and professional attainments, are his only passports to the medical corps of the navy.

Resolved, That this Society cannot look with indifference on any attempt to depress or degrade a whole class of public officers, belonging to a liberal profession, and so indispensable in the proper organization of the navy of their country.

Resolved, That as a well-defined "Assimilated Rank" has been assigned to medical officers of the Army, by an act of Congress, dated Feb. 11th, 1847, this Society cannot believe, that an invidious distinction will be made between the *Medical Departments* of the Public service; but that the National Legislature will protect the Surgeons and Assistant Surgeons in their just claims to a *Nominal Rank*, or a *social* position, as respectable among the other grades of the Navy, as the *Medical Staff* of the Army now enjoy *by law*, in relation to their *brethren of the Line*, in that service.

Resolved, That a copy of these resolutions be forwarded to the Secretary of the Navy, through the Chief of the Medical Department; and also that a copy be forwarded to the chairman of the Naval Committee, in each house of Congress.

W. PIERSON, M.D., Rec. Sec. of Med. Soc. N. Jersey.

New Brunswick, N. J., May 14th, 1850.

At the semi-annual meeting of the Erie County Medical Society in the State of New York, held in the city of Buffalo, June 12, 1850, it was, on motion of Dr. Austin Flint,

Resolved, That this Society recommend to the members of the medical profession of this county, for their signatures, the memorial to Congress in behalf of the medical officers of the navy, praying for an assimilated rank, believing that the action on the part of the National Legislature asked for, is due, not only to the Medical Department of the navy, but to the character of the medical profession generally.

Resolved, That this resolution be published, and that copies be transmitted to the representatives in Congress from this district, and to the Senators from this State.

From the regular minutes.

JOHN S. TROWBRIDGE, Sec'y.

The following preamble and resolutions were unanimously adopted by the "Medical and Chirurgical Faculty of Maryland," at its Convention, held June 5, 1850:

Whereas, Success in the medical profession requires intelligence, sound morality, and competent knowledge of the principles of medi-

cine, as well as liberal education: and *whereas*, humanity and patriotism alike demand that all our fellow-citizens who serve the republic in the army and navy should be, when sick or wounded, accompanied by physicians as well instructed as any our country affords: therefore,

Resolved, That the critical examination of candidates for admission into the medical departments of the army and navy tends to the improvement of medical education, and to secure competent medical officers in the military service of the country.

Resolved, That properly qualified members of the medical profession are *socially* the equals of members of any branch of the army and navy, and therefore should be assigned by law a respectable position in every military community.

Resolved, That the "Medical and Chirurgical Faculty of Maryland" regards with approbation the law of the United States which confers military rank upon medical officers of the army, because it secures them an equality of rights and privileges with officers of other staff departments.

Resolved, That the "Medical and Chirurgical Faculty of Maryland" earnestly recommend that a similar law be enacted by Congress to place officers of the medical department of the navy on an equality of rights and privileges with other officers of this branch of the national defence.

Resolved, That the Secretary of the Faculty be, and is hereby, directed to transmit, immediately, copies of these resolutions, properly signed by the officers of the Faculty, to the Secretaries of War and of the Navy, through the Chiefs of the Medical Department of each service at Washington, and to the President of the Senate, and Speaker of the House of Representatives of the United States, in order that the attention of Congress may be invited to the subject.

From the minutes.

WM. H. DAVIS, Sec'y.

CORRESPONDENCE BETWEEN COMMODORE ——— AND PURSER S—— F——.

"United States Ship ——,
"Monterey, October 21st, 1848.

"SIR:

"It has occurred to me, that you may have overlooked the existence of a General Order of the Navy Department, dated May 27, 1847, conferring certain rank on Pursers, as your order of this date placing me on a survey, (which has been promptly and cheerfully obeyed) appears to me to conflict with it.

"I do not consider this a proper occasion to express any opinion as to the expediency of the order of the Secretary of the Navy. He has thought proper to issue it, and I respectfully submit the subject

for your consideration, requesting you to take such action in it as you may deem best.

"Very respectfully, &c.,

"S—— F——,

"Purser, U. S. N.

"Commodore —— ——,
"Commanding United States Naval forces,
"Pacific Ocean."

"United States Ship ——,
"San Francisco, August 17th, 1849.

"SIR:

"I had hoped ere this to have received an answer to my communication to you of the 21st October last, a duplicate of which is herewith enclosed.

"In again calling your attention to the subject of it, I beg leave to remark that the General Order of the Navy Department, of 27th May, 1847, conferring rank on Pursers, has been as entirely disregarded on board this ship since I have been attached to her, as if it had never been issued.

"Very respectfully, &c.,

"S—— F——,

"Purser, U. S. N.

"Commodore —— ——,
"Commanding United States Naval forces,
"Pacific Ocean."

LETTER OF COMMODORE ——.

TO S—— F——, ESQ., PURSER, U. S. SHIP ——.

San Francisco, August 18th, 1849.

SIR:—Your letter of yesterday's date, inclosing a duplicate of yours to me of the 21st of October, 1848, and asking my reply thereto, is received.

I have not unintentionally deferred answering your first appeal: on the contrary, I have several times taken up the circular of the 27th of May, 1847, to which your letter refers, but, for the life of me, such is its ambiguity that I am unable to give to it any practical construction conformable with well-established military principles, one of the most stable of which is, so far as my experience goes, that *non-combatants* never command regular *officers of the line* under any circumstances whatever. If there is anything clearly expressed in the circular in question, it is that the assimilated rank conferred thereby does not carry *authority to exercise military command*, nor give additional right to quarters.

In my judgment, then, all that the circular of May 27th, 1847, confers on *non-combatants* in the navy is the *assimilation of rank in society when off duty*, and such I am informed (unofficially) was the decision of the late Secretary, Judge Mason, when applied to by

Purser B——, serving on the Portsmouth station; any other construction given to the rule would be productive of endless confusion in actual service; an officer's rank and privileges would come and go as often as he stepped in or out of a boat, or from one ship to another in the same squadron.

The circular speaks of "commanding and *executive officers:*" "*no such rank or grade as executive officers* is known to the law—every officer, whatever may be his grade or rank in the navy, charged with the performance of any particular duty, becomes an "executive officer" while he is executing the orders of a superior. At the date of your original letter, October 21st, 1848, Mr. J—— W——, one of the senior Pursers in the navy, then attached to the Lexington storeship, by the assimilated rank, ranked second in this squadron, and above Commander S——, one of the senior commanders of the navy, and according to the construction claimed by some of the *non-combatants*, Purser W—— would take precedence of all commanders and lieutenants in the squadron, except his immediate commanding officer, a lieutenant nearly one hundred from the head of the list, and the first lieutenant of the Lexington, one of the juniors of his grade; this would be the case in any assemblage of officers that might have been required on board the Lexington. Thus you would see the senior commander in the squadron ranked by a purser, while that purser would be ranked by the junior lieutenant in the navy. Again, a midshipman sent in charge of a boat, to carry surveying officers from one ship to another, or on any other duty, is an "*executive officer*," and according to the letter of the circular under consideration, he would rank Purser W——, but Purser W—— would rank all other officers of the squadron that might happen to be in one of the Lexington's boats; and here again another difficulty arises in attempting to carry out your construction of the circular, as rank and command would then be governed more by the *boat* or particular vessel, than by commission or length of service in the navy, for *commanding officers*, as well as executive officers, are merely temporary and accidental *positions*, varying and changing from day to day, and from hour to hour.

The captain of a ship is her "*commanding officer*" when on board; the moment he goes over the ship's side, if but for an hour, the officer next in rank becomes the "*commanding officer*," and it might be a second lieutenant in the absence of the first, who with other officers were holding a survey, which convened while the captain and first lieutenant were on board, at the head of which survey the senior purser, according to assimilated rank, would claim to preside; the moment the captain and first lieutenant leave the ship, the second lieutenant, or officer of the line next in rank, becomes *the commanding, and executive officer* too, of that vessel, and although he may have been the junior member and a purser the senior on the survey while the captain was on board, as soon as the captain leaves, the junior member rides over the senior,

but drops back again, possibly three or four times in the course of one forenoon. Apply the rule as construed by yourself and some other *non-combatants*, to surveys, *courts-martial*, and any other *mixed service*, and nothing but strife and confusion can possibly grow out of it.

I shall submit the case to the Honourable Secretary of the Navy, and ask his construction of the rule.

Very respectfully,

Your obedient servant,

_____ _____,

Commander-in-Chief U. S. Naval Forces, Pacific Ocean.

It has been noticed already that the commodore recognises the existence of "officers of the line" in the navy, and designates the staff of the navy by the term "non-combatants." The existence of a "medical staff," by name, was recognised by the Honourable Levi Woodbury, as Secretary of the Navy, in March, 1832. At that time, he promulgated "Rules of the Navy Department regulating the civil administration of the Navy of the United States," which was a compilation "from the various orders, circulars, regulations, and decisions," which were found "dispersed over the records and files of" the Department. Chapter xlvi., p. 41, of this compilation, commonly known as the "Red Book," is headed "MEDICAL STAFF," and embraces certain rules for the guidance of medical officers in the navy, dated 1821, 1823, 1829, &c. This precedent, it is presumed, might be sufficient to authorise the use of the term *staff*, in place of that of *non-combatants*.

The General Order does not mean, in fact, to exclude pursers from *military command*, if the writer's definition of the term (page 8) be correct, but to exclude them entirely from *command in the line*, which they do not require, except only in case of being placed in charge of a division of the crew, or when supervising the supply of powder during battle, from the magazine to the battery.

The notion of the commodore that the assimilated rank conferred on pursers is only operative in "society when off duty," is untenable. However observant officers, when off duty, might be of the rules prescribed by the Navy Department for social intercourse, it is not probable their authority would be acknowledged by society, either at home or abroad. If he means to confine his application of the word "society" in

this instance, to officers of the navy exclusively, his notion is equally untenable, because there is not an absolute necessity for the Navy Department, to issue General Orders to govern the *unofficial* acts of officers: when they are off duty or unemployed, they, like citizens generally, conduct themselves by the commonly received rules of politeness and courtesy. It is not presumed, he understands that assimilated rank, is operative among officers, only during their social intercourse at mess-table, &c.

The writer is gratified to find the commodore sustains his opinion, that there is "no such rank or grade as executive officer known to the law," and that there can be but one commanding officer or officer in command on board ship. The commodore's illustrations show that the term "commanding officer," in the General Order, was designed to designate the officer left in command during the temporary absence of the captain; and that no other exception should have been made in the operation of assimilated rank.

It is an error to suppose that officers may act in two capacities at the same instant of time. While a senior or first lieutenant of a ship is serving as a member of a court, or of a board of survey, he does not act as first lieutenant; but simply as a member of the court or survey, although he resumes his duties as first lieutenant while said court or survey is not in session. While acting as a member of a court, his position relatively to other members of the same court is determined by their lineal, or assimilated rank, as the case may be, compared with his own, the office of first-lieutenant being merged, for the time, in that of member of the court.

Illustrations of the principle may be found in civil life. A citizen may be president of one society or board, vice-president of a second, secretary of a third, and member of a fourth; but he cannot be recognized as president in but one of the four. The same member of Congress may occupy two or more official posts, and hold a relative position in each: he may be chairman of a standing committee, and member of one or two other committees, but his relative position as chairman in one committee does not affect his position as a member in the others, or prevent him from acting as presiding officer in "committee of the whole," either of the Senate or House.

NORFOLK PLEA.

Navy Yard, ———, July 29, 1850.

SIR:—The pursers and surgeons who claimed precedence of certain sea-officers, on the formation of a procession on the 25th inst., at this yard, having been required by you to state their ground for such claim in writing, with the view to sending them to the Navy Department, it occurs to the undersigned that it is right and proper that their reasons for objecting to the pretension of those officers should also be set forth. We therefore beg leave respectfully to say, that we were there on duty as commanding and executive officers, and did not contest, nor was there occasion for contesting the legality of the orders issued by Messrs. Bancroft and Mason. These two orders expressly state that "all commanding and executive officers, of whatever grade, when on duty, will take precedence over all medical officers and pursers," and that "surgeons and pursers" of more than twelve years will rank with "commanders:" but they do not say they shall in any event take precedence of "commanders," commanding or executive officers. In the event of a commanding or executive officer being called to the performance of duty, such as taking part in the recent ceremonies, it cannot be justly contended that they are therefore to be deprived of their rights and privileges as such. Yet those officers of the medical and purser's corps have so construed the orders as to exempt themselves from a compliance with their terms as above cited. It may not be inappropriate to cite here a case. For instance: a necessity for the service of a ship arises, whose commander or executive officer may be absent from her "on duty," can it be imagined that the secretaries who gave those two general orders designed that any of the officers attached to such ship should be exempted from the obligation to obey the order of his commanding or executive officer, or that such commanding or executive officer should give an order to one who ranked him? We feel assured that such an effect of any general order could never have been contemplated.

In addition to the foregoing, we beg leave to say, that we do not recognize the right of any individual, nor of any other power than Congress, to deprive us of the rank, which has been conferred upon us by the joint action of that body and the President of the United States, by every act classifying officers from the Continental Congress of 1776, down to the present time. *We therefore deny the right of any surgeon or purser in the Navy to take rank or precedence of a commander* UNDER ANY CIRCUMSTANCES WHATEVER.

We have the honour to be, respectfully,

Your obedient servants,

Signed, —— ——, Comm'der.

—— ——, Comm'der.

—— ——, Comm'der.

Com. —— ——, Com'g Navy Yard ——.

In addition to what has been previously advanced, on the construction of the General Orders, it may be remarked here, that the words "all commanding and executive officers, of whatever grade, when on duty, will take precedence over all medical officers and pursers," are susceptible of a different meaning from that given above. The import of this part of the order is that, while an officer is acting as "commanding officer" during the temporary absence of the captain, he will have precedence precisely as if he were, in fact, a captain without reference to his grade; and also, while an officer is acting as "executive officer," he will have precedence without regard to his grade, which, while he so acts, is merged in the office of executive officer. But it is not supposed to mean, gentlemen can be "commanding officers" in a procession, even in the presence of a common superior, or that the functions of "executive officer" of a ship are carried into a funeral procession, and, therefore, such officer may claim precedence. It seems to the writer, that the design of this part of the order was to give precedence of staff-officers, without reference to their seniority, to any lineal officer while actually in command of a vessel to which said staff-officers are attached for duty, for the very purpose of meeting the case suggested above.

The term "commanding officer" in the General Order is applicable only to one temporarily in command. The commodore sustains this construction. He virtually contends that a midshipman, placed temporarily in command of a boat to convey, for instance, a party of staff-officers on shore to participate in a procession, is, for the time, both an executive and a commanding officer; and under the extensive construction of the term in the above letter, the same midshipman would be entitled, in a procession, to precedence of the senior staff-officer of the service.

It is a mistake to suppose that "commanding and executive officers" can take part in a ceremonial procession; the moment they leave the precincts within which they are "commanding and executive officers" their functions cease. The executive officer of a ship, for example, is not executive officer of any other ship or vessel on board of which he may visit. The functions of executive officer are not transferable in the same individual from place to place, or from ship to shore, wherever he may go. If a first

lieutenant or executive officer has any rank other than that of his lineal grade, it is purely a "local rank," and is operative exclusively in the vessel to which he is attached, and then only in the line of the duties of the office.

The above remarks, and the letter upon which they are made, show the importance of stating all orders and laws in such terms as are susceptible of one meaning only. The gentlemen who sign the letter are doubtlessly sincere in their views, and, therefore, are entitled to commendation for their attempts to sustain them.

NOTICE OF SERVICES OF THE MEDICAL STAFF OF THE NAVY DURING THE MEXICAN WAR.

Extract from the Report of Hon. J. Y. Mason, Secretary of the Navy. December 6, 1847.

"During the past season, I regret to state, sickness has prevailed with much violence in the Gulf Squadron, and at the places occupied by our naval forces along the coast. Many valuable officers and men have fallen under the ravages of fever. But it is a source of great satisfaction, that the number of deaths has been small in proportion to the number of cases of yellow fever, and of fever of other malignant type. No class of officers has suffered greater proportionate loss, than the medical corps of the Navy. Their heroic devotion to their professional duties has received, as it deserved, the warm and grateful commendation of their commanding officer; and while their skill and their attention rescued from death an unprecedentedly large proportion of their patients, the anxiety and exposure, incident to their arduous duty, left them without the strength to resist the disease when themselves attacked. Some of the most accomplished of their highly meritorious corps have fallen victims to the disease of the season."

"United States Flag Ship Germantown,
"Vera Cruz, September 6th, 1847.

"SIR,—I am again called upon to announce to the Department, the death of another valuable officer of the Squadron: Passed-Assistant-Surgeon J. Howard Smith, breathed his last yesterday evening at the Naval Hospital.

"The death of this and the other medical officers, may in part, be ascribed to the extraordinary anxiety and labour to which they were subjected in their attendance upon the sick; worn out in body, though not in zeal and courage, they had not sufficient strength to bear up against the effects of disease when it came upon them.

"Doctor Smith was attached to the steamer 'Spitfire,' and volunteered with Doctor Hastings, of the 'Mississippi,' to take charge of the sick at the Hospital, when Dr. Thornly was taken with the fever.

"Words cannot express my feelings, on seeing these devoted men

stricken down as they have been by the epidemic, from the fatal malignancy of which their own incessant labours and watching, by night and by day, have saved so many.

"As a proof of the noble self-devotion of Doctor Hastings, an example worthy also the character of his lamented companion Dr. Smith, I subjoin an extract from the 'Sick Report' of the 31st ult.

"I have the honour to be, with great respect, sir,

"Your obedient servant,

"M. C. PERRY,

"Commanding Home Squadron.

"To HON. JOHN Y. MASON,
"Secretary of the Navy, Washington."

EXTRACT FROM THE PROCEEDINGS OF THE LEGISLATURE OF MARYLAND.

"*Maryland, Set.*

"At a session of the General Assembly of Maryland, begun and held at the city of Annapolis, on the last Monday of December, being the thirty-first day of the said month, in the year of our Lord one thousand eight hundred and forty-nine, and ended the tenth day of March in the year of our Lord one thousand eight hundred and fifty.

"His Excellency, Philip F. Thomas, Esquire, Governor.

"Among others, the following resolution was adopted, to wit:

"By the Senate, February 25th, 1850.

"Whereas, responsive to an order of the Senate of the 7th day of January, 1850, calling for copies of letters on file in the Navy Department at Washington, relative to the gallant and meritorious conduct of Commander Franklin Buchanan and Surgeon Ninian Pinkney, of the United States Navy, in the late Mexican war; the following copies of letters have been received from the Honourable Secretary of the Navy:

"Navy Department, February 18, 1848.

"SIR:—Your letter of the 15th instant, reporting your arrival with the U. S. Ship Germantown, in the Chesapeake Bay, on your way to Norfolk, has been received. It gives me great pleasure to say that you have served in command of the Germantown to the entire satisfaction of the Department.

"It also gives me great pleasure to enclose to you a copy of a letter from Commodore Perry, of the 11th ultimo, which is placed on the files of the Department. Commander Charles Lowndes will be ordered to relieve you. On his reporting, you will regard yourself as detached from the command of the Germantown, with a leave of absence for three months, at the expiration of which you will report to the Department.

"I am respectfully, your obedient servant,

"J. Y. MASON.

"Commander FRANKLIN BUCHANAN,
"Comd'g. U. S. Ship Germantown, Norfolk, Va.

"Navy Yard, Vera Cruz, January 11, 1848.

"SIR:—The return of Commander Franklin Buchanan to the United States, and his probable detachment from my command, gives me an opportunity of testifying to the Department, the high opinion I entertain of the merits of that excellent officer. Setting an example in his own person of promptitude, cheerfulness, and obedience in the execution of all orders, he exacts the same qualities from those under him, and I do him no more than justice in saying that for courage, energy, and judgment he has not, in my opinion, a superior in the service. Commander Buchanan has headed detachments from his own ship in the expeditions to Tuspan and Tobasco, and was among the most forward on all occasions of duty and gallantry.

"I have the honour to be, with great respect, sir,

"Your obedient servant,

"M. C. PERRY,

"Commanding Home Squadron.

"Hon. J. Y. MASON,

"Secretary of the Navy, Washington.

"Navy Yard, Vera Cruz, January 14, 1848.

"SIR:—I have great pleasure in expressing to the Department the high opinion I entertain of the professional skill and valuable service of Surgeon Ninian Pinkney, who has relieved Surgeon McClenahan, in the Germantown. I was particularly indebted to Dr. Pinkney for his exertions and attention to the sick and wounded in the expedition to Tobasco; and I am happy to say that he deservedly enjoys the respect and confidence of every officer and man in the squadron.

"I have the honour to be, with great respect, sir,

"Your obedient servant,

"M. C. PERRY,

"Commanding Home Squadron.

"Hon. J. Y. MASON,

"Secretary of the Navy, Washington.

"And, whereas, The General Assembly of Maryland are satisfied from these testimonials and other high sources of information, of the gallant and meritorious conduct of those officers in their official positions; Therefore,

"*Resolved unanimously by the General Assembly of Maryland*, That the State of Maryland entertains a just appreciation of the gallant and meritorious conduct of the above-named officers, in the late Mexican war, and that the thanks of the State of Maryland be and they are hereby tendered to them for said conduct.

"*Resolved*, That the Governor be respectfully requested to forward copies of the resolutions to each of the above-named officers.

"Copy of the Governor's letter accompanying the above resolutions:

"State Department,
Annapolis, June 3d, 1850.

"SIR:—I have the honour herewith to forward to you the accompanying preamble and resolutions of the General Assembly of Maryland, passed at the December session, 1849, expressive of its high appreciation of your gallantry and meritorious conduct in the late war with Mexico.

"I avail myself of the occasion to assure you of my most cordial concurrence in the sentiments contained in these resolutions.

"I have the honour to be, with high consideration,

"Your obedient servant,

"PHILIP F. THOMAS.

"Commander FRANKLIN BUCHANAN, U. S. N.

LIST OF PAMPHLETS, ETC., ON ASSIMILATED RANK.

An exposition of the unjust and injurious relations of the United States Naval Medical Corps. By a member. 8vo., pp. 22. John Murphy, Baltimore, 1842.

An inquiry into the necessity and general principles of re-organization of the United States Navy, with an examination of the true sources of subordination. By an observer. John Murphy, Baltimore, 1842.

Hints on the Re-organization of the Navy, including an examination of the claims of its civil officers to an equality of rights. Wiley & Putnam, New York, 1845.

Change for "Hints on the Re-organization of the Navy." Thomas Smith, Printer, New York 1845.

A reply to "Hints on the Re-organization of the Navy." February, 1845.

Examination of "A reply to 'Hints on the Re-organization of the Navy.'" Wiley & Putnam, New York, 1845.

Letter by Commander L. M. Goldsborough, "In behalf of the sea-officers concurring in the sentiments of this communication, including himself," addressed to the Hon. Secretary of the Navy, 27th January, 1848.

An examination of the legality of the General Orders, which confer assimilated rank on officers of the civil branch of the United States Navy. By a Surgeon. Philadelphia, 1848.

Observations on certain objections to the General Order of the Secretary of the Navy, conferring assimilated rank on the surgeons and pursers of the Navy. By Walter Jones. Washington 1848.

An appeal to the Congress of the United States, concerning the relative rank of the medical officers and pursers of the navy. By Ninian Pinkney, Surgeon U. S. N. Baltimore, February, 1850.

Assimilated rank in the navy. A reply to an appeal, by Ninian Pinkney, Surgeon U. S. N., to the Congress of the United States, relative to the rank of surgeons and pursers. By a junior sea-officer.

Assimilated rank in the navy, its injurious operation upon the discipline, harmony, and general good of the naval service.

Reply to a pamphlet on the subject of "Assimilated Rank," referred to in a memorial submitted to the Secretary by sundry line-officers of the navy. March, 1850.

Remarks on relative rank in the navy.

A few thoughts upon rank in the navy. Philadelphia, 1850.

The "Southern Literary Messenger" for 1843 and 1846; the "Medical Examiner" and the "Medical News" for 1843, contain articles bearing on the subject.

A memorial was addressed to Congress by the medical officers of the navy, December, 1844, praying for an assimilated rank.

In January, 1848, the pursers of the navy presented a memorial to Congress, on the subject of assimilated rank, from which the following is an extract:

"FROM THE REPORT OF THE COMMITTEE ON NAVAL AFFAIRS, SUBMITTED TO THE SENATE, MAY, 1838.

"There are few officers on whose fidelity and skill the public interests depend more than on the Pursers. The office requires great industry, care, and experience. Without these, neither their character nor the public interests can be safe. Their responsibility, in taking care of the public property and keeping and disbursing large sums of money, is great. They are a substitute for, and perform the duties of, several officers in the army, as will be seen by the accompanying documents; they give large bonds of $25,000 for the faithful performance of their duties; they have not before them any higher rank to which time and correct conduct may carry them; they must, like other officers, hold themselves in readiness for absence from home, and cannot enter, at any time, with any hope of success, into other employments from which profit may arise; they are associated, both at home and abroad, with other naval officers, and subjected to the proper and necessary expenses of such associations; their responsibility is pecuniary. They are subjected to the rules and regulations of the service, and must obey as others do, or meet the penalty of disobedience. But they do not deal, ordinarily and officially, in the management and care of our yards and ships, nor with the conflicts of battle, although they are sometimes thus employed; and there are some illustrious instances in which they have acquired high honour, by mingling in these as voluntary aids in hours of danger. The duties of a Purser are peculiar and complicated; no young and inexperienced man can perform them without hazard to himself and the public interests; they require a proper apprenticeship. With adequate capacity and acquirements, it is true that they may be

discharged on a limited scale (and in small vessels) by those who are not trained; but intrust them to the inexperienced, and the consequences may be eminently cause of regret.

"A Purser performs, in all situations 'in service,' the duties of three distinct grades in the army; viz.: Paymaster, Quartermaster, and Commissary;* they have upon their shoulders not only the responsibility, but the positive duties of them all. It may certainly with great truth be said, that in the army there is no corresponding rank with a Purser in the navy; for it is really the case that Pursers have *no rank at all*, with regard to their comparative duties. However, it becomes only necessary to put the following plain questions:

"1st. Are not the duties of a paymaster confined strictly to paying every two months, or at other periods, the officers, non-commissioned officers, and privates of his district: and is not that duty, as connected with the naval branch of the service, performed by a Purser, wherever he may be stationed?

"2d. Does not the duty of a commissary of subsistence consist exclusively in the receipt and expenditure of provisions? and is not this another duty which devolves upon a Purser?

"3d. Who is the officer in the army appointed to receive and issue the public clothing? is it not the Quartermaster? and is not that duty performed by a Purser in the navy?

"The Committee believe that there has seldom, in this or any other country, been a more correct and valuable class of officers."

P. S. Certain captains disregard, or are ignorant of the provisions of the law which re-organized the Navy Department in 1842. They countermand the orders of the chiefs of bureaus, or modify them to suit their own special views, with as much self-possession, as if the 5th sect. of the law, approved August 31, 1842, did not exist. Space here does not permit an exhibition of the spirit of grandeur which characterizes certain recent circulars and orders which have appeared in different squadrons, not only in defiance of law and good sense, but also of courtesy to *superior* officers, namely, the chief of the Bureau of Medicine and Surgery, and the chief of the Bureau of Provisions and Clothing. Example in obedience is far more efficient in military organization than precept. Let the Department look to it.

ERRATA.

In naming the several codes of regulations, page 19, the writer overlooked the "Naval Regulations, issued by command of the President of the United States of America, January 25, 1802," and the "Red Book" of 1832. The code of 1802 rested solely on the authority of the President. Some of its provisions are incorporated in the Blue Book of 1818; but it is chiefly remarkable for the imperfection of its language.

Page 22, line 8 from top, for "*is*," read "*are.*"

Page 26, line 15 from top, erase the comma after the word "*officers.*"

* All these officers have rank.

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APPENDIX.