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# Medical Practitioner

## CONDEMNS

INVIDIOUS DISTINCTIONS SHOWN BY THE  
GOVERNMENT BETWEEN PRIVATE PRACTI-  
TIONERS AND STATE-PAID PRACTITIONERS  
IN THE MATTER OF RIGHTS AND PRIVILEGES  
OF MEDICAL REGISTRATION.



## STANDS

FOR PROPAGANDA AND SERVICE TO BRING  
ABOUT HARMONY AND PROSPERITY IN THE  
MEDICAL PROFESSION.

EDITOR :

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## MADRAS MEDICAL REGISTRATION ACT AMENDMENT BILL.

MEMORANDUM SUBMITTED BY DR. V. RAMA KAMATH, EX-PRESIDENT, MADRAS MEDICAL COUNCIL TO THE SELECT COMMITTEE, MADRAS STATE LEGISLATURE APPOINTED TO CONSIDER THE BILL CITED ABOVE.

Hon'ble Gentlemen,

As the matters connected with the Madras Medical Council Elections held in 1946 have been made as the basis for amending the Madras Medical Registration Act and as the very first non-official President of the Madras Medical Council has been made the target of attack, basing on a confidential report submitted by a Special Officer appointed with no legal authority by the Government, to conduct an enquiry regarding the conduct of such elections, I feel bound to make the following representations to you, both in my interest but more in the interest of Legislature as all that was stated on the floors of the Legislative Assembly and Council to justify the Bill by the Ministers is far from facts and cannot be made a back ground for amending the Medical Act as proposed by the Government.

I will now briefly state what happened during the elections before and after.

The elections in question to the Madras Council were held in October 1946 and seven candidates were declared elected by the Returning Officer who was the Registrar of the Madras Medical Council.

On 6th November 1946 six defeated candidates sent by post a letter to the Registrar, asking him to circulate to the members of the Madras Medical Council, a memorandum of objections to the said elections and to summon an extraordinary meeting of the Council to decide the validity of the elections.

Under rule 19 of the rules made "for the subsequent elections" under which category the elections in question fell, "The Council may of its own motion or an objection made, declare any election that has been held to be void on account of corrupt practice or any other sufficient cause and may call on the electorate to make a fresh election. The decision of the Council under this Rule shall be final."

Though the memorandum of objections (Annexure No. 1) was purported to be made under rule 19, it was not directly addressed to the Medical Council but to the several members of the council through the Registrar and it began with these words "We deem it our duty to bring to your notice the following for favour of your kind consideration and disposal in the manner equity and justice demand" and ended with the words "It is therefore requested that the Council may be pleased to take up the matter for detailed enquiry and do justice in the interests of the profession." There was no allegation of any kind of corrupt practice against any of the elected candidates. There was no allegation that the election of any elected candidates was void or that any of the defeated candidates should have been declared elected. There were seven elected candidates but only six objectors who could displace even if all of them were declared elected. There were allegations of certain irregularities in the electoral roll and in the conduct of elections but there was absolutely no allegation that the irregularities substantially affected the result of the elections. The alleged irregularities affected all the candidates equally whether defeated or successful and in the absence of an allegation that the irregularities were such as to substantially affect the result of the elections, no election could in law, be set aside at all.

The Memorandum was either a request to the members of the Medical Council to take action *suo moto* under rule 19 of the Rules or was an objection petition to set aside an election under that Rule. In either case, it was totally unsustainable on the face of it for the absence of any allegation of any corrupt practice or that there were such material irregularities as affected the

result of the elections. It was liable to be summarily rejected.

The council however, carefully enquired into each and every one of the allegations in the memorandum of objections and duly recorded on 25th November 1946 the following resolutions,

*"The Council after going through the memorandum and explanation of the Returning Officer, Mr. Kuttappa and after examining him, is of opinion that there are no grounds for allegations of corrupt practice or any other sufficient cause to set aside the elections."*

It will be noticed that the decision of the council follows the language of rule 19.

It must also be stated that myself, the President and other six members of the Council, the successful candidates did not take any part, in the deliberations of the Council. The resolution was proposed by Dr. J. C. David, representing the Madras University, who recently retired as Surgeon-General and seconded by Capt. M. G. Kini, member representing the staff of Stanley Medical College (Annexure 1).

As under Rule 19, the decision of the Council was final, one would have thought that at this stage there was an end of the matter.

During Prakasam's Ministry the defeated candidates approached the Minister concerned to re-open the matter. An advocate member of the Assembly, Sri N. S. Varadachari represented the defeated candidates. Neither the Minister nor the Government have appellate or revisional authority over a decision of the Council in an election matter and the Government themselves admitted on 3rd February 1947 on the floor of the Madras Legislative Assembly that under the Act and the rules framed thereunder, the decision of the Council was final and they had no right to interfere. (Annexure 3.) But yet from about the middle of 1947 during Omandur Ministry, the Government had persistently passing one illegal order after another on the matter, in total disregard of the clear provisions of rule 19 and the repeated representations made to them by the Council and its President

pointing out the *ultra vires* character of their action as per the legal opinion obtained by the Medical Council (Annexure 2).

The complaints referred to in G.O. No. 2313, P.H. dated 4th July 1947 (Annexure 4) on which the Government had been acting are known only to themselves and were never been communicated either to the Medical Council or the elected candidates. The latter was ignorant of what those representations were, when they were made or what relief they claimed.

In their order No. 1448 P. H. dated 20th April 1949, (Annexure 5) the Government, purporting to act under section 22 of the Act, appointed a retired judicial officer to enquire into the representations made by Dr. D. V. Venkappa and others in a Memorandum dated 6th November 1946, to the Medical Council mentioning certain alleged corrupt practices etc., and report his findings to the Government. Sec. 22 of the Act, runs thus:—

*If at any time it shall appear to the Governor in Council that the Council has neglected to exercise or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the Governor in Council may notify the particulars of such neglect, excess or abuse to the Council; and, if the Council fails to remedy such neglect, excess or abuse within such time as may be fixed by the Governor in Council in this behalf, the Governor in Council may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Council to be exercised and performed by such agency and for such period as the Governor in Council may think fit.*

The action of the Government was clearly without jurisdiction. The Medical Council had already enquired into and passed its decision on the memorandum in question. It had not neglected its duty to decide on it, for had it any way abused its powers in deciding on it. The Council had done its duty. Section 22 of the Act has

nothing to do with election proceedings or anything done under the rules. If it were to be conceded for the sake of argument that the Government had power under Section 22, they had no power under the latter section to order an enquiry as they did. In G. O. No. 3192 P. H. dated 8th September 1949 (Annexure 6) the Government themselves have stated that the Council after going through the memorandum of objections and explanations of the Returning officer, expressed its opinion that there was no sufficient cause to set aside the elections." Therefore what the Government said in the very G. O. that the Council had neglected its duty and abused its powers was incorrect.

The Special Officer appointed under G. O. No. 1448 P. H. dated 29th April 1949, appears to have treated his enquiry as one arising on "an election petition" for in one of his letters to me (dated 31st May 1949) he stated "Since Dr. D. V. Venkappa and five others have filed a petition before the Government challenging the validity of the return of yourself and six others, etc and since you are in the position of a respondent entitled to appear before me etc". In a notice dated 1st June 1949 to Dr. P. S. Srinivasan another elected candidate, the special officer enclosed "copies of the petitions filed by Dr. D. V. Venkappa and others and stated. "If you do not appear at the enquiry on the 14th June 1949 the enquiry will proceed *ex parte*." The so called petitions which had been enclosed were (1) a letter by Dr. D. V. Venkappa alone dated 27th October 1946 to the Returning officer to postpone the declaration of the results of the elections pending final orders in the matter by the Government. (2) another letter dated 30th October 1946 addressed to the Minister for Public Health for stay of the result of the elections. Thus the petitions on which he purported to enquire into were not for declaring any election to be void. The Government went to the extent of framing a new rule empowering themselves to appoint any person or persons to exercise the powers and functions of the President or the Registrar under the rules (Annexure 6.) Whatever might be the justifica-

tion for the rule passed by the Government on the 8th September 1949, it was absurd and against justice and fairplay not to mention, the public morality to make it applicable with retrospective effect to the disputes of elections held in October 1946.

The Government had been showing so much persistency in a wrong cause. If defeated candidates wished to set aside the elections, it was for them by appropriate proceedings to seek to do so. If they thought that the Medical Council which was the tribunal for setting aside the elections had not exercised a jurisdiction vested in it and neglected to perform its duty, they could have moved the courts of law to compel the council to do its duty. Instead of their being allowed to seek their remedies in whatever manner, was open to them, the Government did take it on themselves to contest the validity of the elections and waste their time and tax-payers money by taking up the side of the defeated candidates and took various illegal, indirect and circumventing steps and had placed themselves in an invidious position. Three years did elapse from the date of elections sought to be set aside. The members elected had taken part in the proceedings of the Medical Council which would all become open to attack if the members were to be declared not having been duly elected. There is no provision in the Act which says that the proceedings of the Medical Council could not be deemed to be invalid by reason of the presence at its meetings of members not duly elected to it.

Having stated above what transpired between the Government and the Medical Council in regard to the Medical Council Elections, I will now briefly refer to the confidential report of the Special Officer appointed by the Government under G.O.No. 1448 dated 20-4-49.

On or about 31-5-49, the seven members of the Council, who were the seven successful candidates received notices from the Special Officer, asking them to appear before him as respondents to a petition filed before the Government challenging the validity of their return as duly elected to the Madras Medical

Council. None of the members appeared before him as they, along with the Madras Medical Council, after taking legal advice, were of opinion that the enquiry was illegal and unconstitutional.

Apart from the oral evidence deposed by the interested defeated candidates and two disgruntled Registrars of the Madras Medical Council and some clerks belonging to the office of Surgeon-General there was no evidence worth noting nor was there any documentary evidence before the Special Officer excepting the contents found in the Ballot-Box. No where it is said in the rules on elections that the election records should be placed in the Ballot-box by the Returning Officer. The relevant rule 16 runs thus:—

"Upon the completion of the counting and after the result has been declared by him, the Returning Officer shall seal up the voting papers and all other documents relating to the election and shall retain the same for a period of six months and thereafter cause them to be destroyed."

The Government had the box removed from the Medical Council office to the Secretariat under coercive threats just a few days before its contents had to be destroyed under Rule 16, of Election Rules. This the Government did under instructions from the defeated candidates. The box was delivered at the Secretariat on 8-5-1947 and the Medical Council seals over the slit of the box were found intact as certified by the Assistant Secretary Public Health Department. The box was lying on the verandah next to the office room of Public Health Secretary from May 1947 to June 1949, for over two years. At the time of opening the box by the Special Officer he found as stated by him in his report "a small tear in the paper pasted over the slit and one of the seals got broken." The cause of the broken seal was attributed by the Special Officer in the following words "perhaps as a result of handling by several men during the transit." This colourless description of the box might be compared to the statement made to me on 5th July 1949 by the then Registrar also a Government pensioner. "President, Sir,

As instructed by you, I delivered your letter to the Special Officer yesterday. He permitted me to be present in

the enquiry hall when the Ballot Box was opened and its contents examined.

**Condition of the seals:—**There were two tapes placed cross wise at the end of which the Council office, seals were affixed. The seals on the tape across the slit in the Ballot-Box were intact. *The seals on the top along the slit were broken.* At one end the Secretariat seal was superimposed over the Council seal but at the other and there was no seal at all. There were two tapes with the seals of the Secretariat fixed diagonally and they were found intact.

**Condition of the slit:—**Brown cart-ridge paper had been pasted completely over the slit. A portion of the paper was torn, so that anybody could insert some covers into the box; but to remove anything from the box would have been difficult.

**Seal over the lock:—**This was intact. One of the keys in the bunch with me fitted the lock. So I gave that key to the Special Officer and the padlock was opened with the aid of this key.

A statement about the condition of the seals and the paper pasted over the slit was prepared by the Special Officer and signed by me and Dr. David and Dr. Cherian who were specially invited to be present by the Special Officer.

An inventory of the contents of the box was then prepared as there was no inventory in the box. The only noticeable feature about the contents was that there were some loose covers and the twine used to tie up the covers in a bundle was found lying loose in the box.

An attempt to total up the votes polled by each candidate was made; but the results were not correct. As it was already 3-15 p. m. the enquiry was adjourned after sealing the padlock of the Ballot-Box."

SD. K. RAMUNNI NAYAR,  
Registrar.

N. B:—The then Registrar did draw a picture of the position of the seals on the Ballot-Box and in that picture 5 Government seals were marked as 'S' as against 4 seals of the Medical Council marked as "C". One such Council seal

was seen superimposed by the Government Seal. This Government Pensioner was the Registrar of the Council during the acute stage of the Government proceedings against the Medical Council, the enquiry of the Special Officer being one such proceeding. At the time the box was delivered at the Secretariat, the Assistant Secretary P. H. certified that the medical council seals were in fact on the slit of the Ballot-Box. The presence of 5 Government seals as against 4 seals of the Medical Council, should lead any disinterested person to the conclusion that all was not well with the Ballot-Box at the Secretariat to say the least.

Now to come to the findings of the Special Officer, I should state at the outset that the Memorandum presented by the six defeated candidates to the Registrar and the Government contained only 16 irregularities. After over three years when the Government ordered the enquiry purported to be under section 22 of the Medical Act, two more were added by the Special Officer on his own initiative evidently at the dictation of the Government. The Medical Council had been repeatedly pointing out to the Government as and when the Government had been persisting by passing series of illegal orders purporting to be under Section 22 of the act that their stand under the latter Section was illegal and *ultra vires*. Even assuming for the sake of argument that the Government had jurisdiction under Section 22 of the Act to enquire into the elections held in 1946, the enquiry must be limited to the purpose for which under G.O. 1448 the date 24th April 1949 the Special Officer was appointed. That purpose was stated to be the Council's neglect or abuse of powers conferred on the Medical Council by Rule 19 on elections and its alleged failure to go into the objections of the defeated candidates. The two objections were raised not by the defeated candidates but by the enquiry officer, three years after the elections. Even so, in view of the fact that Rule 16 of the Rules on the conduct of elections required the election records to be destroyed after six months of the elections, the two new objections must be regarded as time-barred.

The first additional irregularity was the failure on the part of the Returning Officer, in not publishing the supplemental list of voters in the Fort St. George Gazette. The Medical Register, for 1945 which was the electoral roll for elections of 1946 which ought to have been published by the then Registrar Sri Madhava Rao before the end of February 1946, was not published. This could be published only in June 1946. As there was no time to publish the supplemental list when the election proceedings began, the supplemental list did not exist nor was it made use of for the elections. As soon as it was reported to me by the Registrar Medical Council, who I came to know later, was in constant touch with the Special Officer and Dr. Venkappa, (all residents of T. Nagar,) that the Special Officer had included two additional irregularities one being the non-publication of the supplemental list of voters, I got at the available records in the office of the Medical Council during and after enquiry which would prove without a shadow of doubt that ballot-papers were not posted to the 150 practitioners who registered themselves after 31-12-1945 and before June 1946. The ballot papers were sent under certificate of posting. Perusal of these certificates and postage account maintained by the Returning Officer himself, would prove that the allegations in this regard is a tissue of falsehood if not a flagrant myth. To build up the myth, he could get statements only from the defeated candidates and the Returning Officer, Kuttappa. The latter must have made, staggering, incoherent, false statements in his deposition before the Special Officer, as Sri Kuttappa did discharge his responsibilities quite satisfactorily, "independent of the President who was himself a candidate" for the elections to quote Sri Kuttappa's very words appearing elsewhere in this memorandum and as Sri Kuttappa was tutored to say all before the special officer against truthful facts which he made in writing before the members of the Medical Council soon after his services were dispensed with by me.

The Special Officer did prepare a shield, to put over Kuttappa as and when wanted to record Sri Kuttappa's statements which were not true and self contradictory and took away the shield over him as and when necessary for corroborating the false and highly defamatory statements of interested defeated candidates. So the Special Officer had to say at the very commencement of his report (Vide paragraph 8) something about his hero as quoted below :—

*" A perusal of the entire deposition of the Registrar Mr. Kuttappa, will show that he has very weak memory and that he in a confused state of mind perhaps the result of the nervous shock that he had due worries caused to him by the President, Dr. Rama Kamath during the latter part of service under him. He admitted that he could not rely on his memory as the incidents about which he gave evidence happened 2½ years ago. In the circumstances I propose to act on the testimony given by the younger man, the clerk (petitioners, 4th witness) that voting papers were as a matter of fact despatched to the voters in the supplemental list."*

The Special Officer put the shield of, "weak memory due to shock etc" on Sri Kuttappa when the latter wandered away from the tutored statements which he was made to say before the Special Officer and the removes the cover over Sri Kuttappa as and when Sri Kuttappa repeated the tutored statements. The ingenious jugglery of the Special Officer is seen throughout his report and specially conspicuous when he comments on the 1st additional alleged irregularity regarding supplemental voters' list. Special Officer finding no substance in Sri Kuttappa deposition regarding the supplemental voters' list gets a clerk Kalyanasundaram to make up for the weak memory of his hero.

It will not be out of place for me to refer to the remarks of the Special Officer in his enquiry regarding a manifesto published by me during 1946 election to the Council. His very words

appearing in the 9th paragraph of his report are quoted below :—

*" In the special election number of his journal, " The Medical Practitioner" he (Dr. Kamath) has scurrilously attacked both Dr. Venkappa and Dr. Narayanamurthi, leaders of the two rival teams and condemned them as not worthy to be in the Council. As he was of such a frame of mind, he would not have hesitated to have recourse to any kind of device to ensure their defeat. The omission appears to be deliberate and gives room for the grave suspicion that the President desired to keep the other candidates in the dark as to the existence of such a large body of voters as 150, so that he might steal a march over them and secure all 150 votes for himself".*

The Special Officer has either shown his total ignorance of elections to democratic institutions or was tutored by the two defeated leaders to mar the effect of the manifesto had on the electorate which rejected the two leaders as not being worthy to represent the medical profession in the Madras Medical Council. He had been leading a life of a frog having plenty to eat in an official well as a Judicial officer. I am not ashamed for having told the voters what I knew about Drs. Venkappa and Narayanamurthi. The voters did show faith in my integrity and returned me and my team with a thumping majority. The official frog makes the Government swallow what he says against me. The Government specially appointed him to oust me, a person who has been fighting for the members of the Medical Profession both inside and outside Medical Council and was bold to fight with the Government for the unrighteous stand they took to uphold the cause of the defeated candidates who preferred to be under Government protection instead of filing their case in a Court of law. I knew both intimately. I did put before the electorate in 1946 what I knew about them basing on facts. Both did not defend themselves against my frank and as bold statements made against them, with the result that my team was returned in 1946 with a

thumping majority. It fell to the lot of the Special Officer to attack me behind my back and sympathise with the defeated candidates who were not able to get a single Voter outside the two defeated teams to corroborate their concocted stories against me.

The other additional irregularity added by the enquiry officer was to the effect that the letter of intimation (to the voters) was not in accordance with the rules and prescribed form and consequently voting papers could be deposited in the Ballot-Box for 15 days instead of only one day. This irregularity on the face of it could not vitiate the elections. The ingenious Special Officer must concoct a story to depict how the irregularity vitiated the elections. He could easily do so with the help of the defeated candidates and Sri Kuttappa whom he describes in the 12 paragraph of his report in the following words :

*"On his (Kuttappa's) own showing, he was certified by the Surgeon-General as a 'willing' subordinate, that is to say, by nature sub-servient to his boss, whoever he may be and in this case the boss was his benefactor."*

Having defined the word "willing" he takes up the suggestion made for the 1st time by the defeated candidates at the time of the enquiry before the Special Officer, that "the President with the connivance of the Registrar, tampered the box, took out the covers deposited in the box by the supporters of the rival team opened them removed the inner covers containing the Ballot papers and then substituted fresh inner covers containing fresh Ballot papers marked as he liked and enclosed them in the original outer cover along with the original declaration papers and then pasted the original outer covers". The Special Officer does not stop there and states "Mr. Kuttappa admitted that the President could have had access to the election papers which were lying in the office room and that there were extra papers which had been printed. In addition to Kuttappa there were more than 5 clerks belonging to

the office of the Surgeon-General, working on part time basis and also an attender belonging to the Council Office. All these were the witnesses of the defeated candidates. The Special Officer did summon one such clerk, Sri Kalayanasundaram P. W. 4 and got from him a false statement that the Supplemental list was not published in the Gazette, but that the practitioners in the supplemental list were supplied with election papers for the purpose of voting. The Special Officer's omission not to get corroborating evidence on the deposition of the defeated candidates and Sri Kuttappa, a person "of a very weak memory, suffering from shock for over 2½ years", as described by the Special Officer is most glaring in regard to the second additional irregularity.

All of you Hon'ble Members of the Select Committee got into the Legislature through the door of elections. There may be at least a few amongst you who got elected on postal voting. The Ballot-Box contained over 3000 covers and each outer cover had in it two more covers. To open the outer cover which was pasted, it would take at least 5 to 10 minutes depending upon the material used for pasting. At this rate, it would take 20 to 30 minutes to open 3 covers and repaste each cover containing the ballot papers. Could it be humanly possible to open all the 3087 covers received by the Returning Officer and in his custody, containing election papers, firstly to find out which voter cast this vote in favour of defeated candidates and then to fabricate all of them in a public office of the Surgeon-General with the Government of Madras. The Special Officer says in his report that he got information from the Government Press that the Returning Officer had caused to be printed 8000 sets of declaration forms, Ballot papers and inner covers to hold the voting papers. The Special Officer also made the Returning Officer, Sri Kuttappa say that it was possible for me to get at election papers and covers. The Electoral Roll contained 7914 voters. The Returning Officer got printed only 86 sets of election papers, covers etc., to meet the exigencies of accidents during

transit of the voting papers by post. The most important document in the elections papers is the voting paper. The Special Officer who got what all he wanted in the deposition of the Returning Officer Sri Kuttappa could not detect a flaw in the evidence of Kuttappa that he, Sri Kuttappa had kept in his personal custody the Ballot-papers. How could I have completed my criminal acts deliberately foisted on me when the voting papers were in the personal custody of Sri Kuttappa. Moreover there were only 86 sets of election papers and covers with Sri Kuttappa. The Special Officer could not manage to get evidence that I got election papers printed in a press of my own. I got above 1000 votes more than the 1st defeated candidate and the other six successful candidates in my team, got more votes than the 1st defeated candidate ranging from 100 to 374 votes. Could it be possible for a worst forger to fabricate so many election papers when he could get only 86 sets printed extra? The Special Officer did twist and gave his own colour to the evidence recorded by him, which in effect amounted to fabrication of evidence by himself. This he did deliberately to serve the purpose of his masters, the Government.

Even a "willing subservient," Registrar, Sri Kuttappa did unguardedly tell a truth that the ballot-papers were in his own custody. The Special Officer would attribute this self-contradiction to the "weak memory" of Sri Kuttappa. The Special Officer could not get any other witnesses of the defeated candidates to correct the weak memory of Kuttappa, though he did so in the first additional irregularity of his own making. He did twist and colour the evidence with no regard to possibilities and probabilities much less to the qualms of his conscience. His only despicable object was to make it appear that his second irregularity added by himself did actually vitiate the elections.

Regarding the original 16 irregularities complained of by the defeated candidates, they should be kept at the door of the Returning Officer who was

at the time of appointment as Registrar, a Government Gazetted Officer and during the enquiry, a Government pensioner, having spite against me for not making him a permanent Registrar. He was assisted in all his work as a Returning Officer by whole time Government servants in the office of the Surgeon-General doing part time work to assist the Returning Officer. The services of Sri Kuttappa were lent to the Council by the Government for 3 months from the date of his appointment. In the meanwhile he was found totally incompetent to serve as Registrar. Medical Council in the absence of 4 or 5 clerks who had been helping him during the elections. His incompetence had been recorded by the Auditor of the Madras Medical Council in the person of Inspector of Local Fund Accounts, a gazetted Government official. Charges were framed against him but he would not appear before the President to answer the charges and he was subsequently discharged from service. He sent an appeal to the Members of the Council and in the appeal the following pertinent paragraph appears:-

*"In contrast to this, I may be permitted to point out that I successfully managed the heavy work connected with the Madras Medical Council Elections as Returning Officer, independent of the President as he was himself one of the candidates. Again as the sole official of the Council I successfully managed the Council meeting held on 25th November 1946 and the subsequent working day, as I could act on my initiative with full freedom. When the President began to interfere with the statutory powers of the Registrar, even from his sick bed and I was not allowed the services of the solitary clerk, even after this was pointed out, my hands were tied as it were and I could not do anything."*

The statement appearing above made by Sri Kuttappa speaks for itself to enable the Hon'ble Members of the Committee whether Sri Kuttappa was a person described by the Special Officer in his Report and a novice to do the work he did as a Returning

officer independent of the President. It must also be stated that as the Manager of the Office of the Surgeon-General, Sri Kuttappa had had much to do with the elections to the Medical Council of India, the Returning Officer being the Surgeon-General. At the time he was about to be made the hero of the plot against me, Sri Kuttappa knew very well that the Government with Hon'ble Sri A. B. Shetty as Public Health Minister, had taken the defeated candidates under their protection, though the immediate predecessors of the present Government refused to do anything with the Memorandum of objections of the defeated candidates. My statement may be verified by the Members of the Committee if they peruse the questions put to the Government on the floor of the Legislative Assembly by Sri N. S. Varadachari in regard to the elections and the answers of the Government. (Annexure 3.)

In case, I were a person of the description appearing in the enquiry of the Special Officer and if I minded my personal interests, I would not have at all discharged Sri Kuttappa from the service of the Council. But I minded the interests of the Medical Council. My state as the elected President of the Council was quite clean, and I wanted to keep it always clean. This could not have been possible for me with Sri Kuttappa as the Registrar of the Medical Council. I therefore removed him from office with the approval of the Council. In addition to the appeal made to the members of the Medical Council for re-instating him, Sri Kuttappa approached Sri A. B. Shetty in April 1947 when he was the prospective Public Health Minister. Mr. Shetty came to my house one morning and pleaded with me for Sri Kuttappa, requesting me to forget all his faults and reinstate him. Sri Shetty said that his friend had only one daughter for whose sake Sri Kuttappa was compelled to live in the city to educate her and that with out additional income Sri Kuttappa's financial position would be very precarious to live in the city. Mr. Shetty wanted an answer from me immediately as he said that Sri Kuttappa was at Sri Shetty's residence and would not leave

him until he got from me a favourable reply. I would not yield and finally told Mr. Shetty that if Sri Kuttappa was even my own brother, I would never have him as the Registrar of the Council and that Medical Council could not be treated by me as a pinjrapole. It was only then that Mr. Shetty had to leave me abruptly. At a certain stage before the Special Officer began his enquiry, I did apprise the Chief Minister by means of a confidential letter regarding this episode, for what it was worth. I did also narrate this incident to the Medical Council when the matter in regard to the despending with the service of Sri Kuttappa's came before the Council.

Before commenting on the 1st additional irregularity, the Special Officer takes the role of a physician and does not hesitate to say that "*the weak memory of his hero was due to the nervous shock that he had, due to the worries caused to him by the President Dr. Rama Kamath during the latter part of service under him*". While stating what he said about me he contradicts himself. Dr. Kamath was said to have worried his hero, the Registrar Kuttappa 2½ years ago and the latter was having nervous shock while deposing before the Special Officer. The shock came at the later part of service of his hero, under Dr. Kamath that is after Kuttappa finished his work as Returning Officer independent of the President and prepared his explanation and placed the same before the Medical Council on 25th November 1946, when the Council considered the Memorandum of objections of six defeated candidates. *The shock and with it the weak memory of Sri Kuttappa as stated by the special officer was really due to the conflict between Kuttappa's tutored brain before the Special Officer and Kuttappa's inner soul which enabled him to discharge his responsibilities as the Returning Officer, independent of the President Dr. Kamath.* The alleged objections concerned only the duties and responsibilities of the Returning Officer. Special Officer's hero, Kuttappa emphatically denied a straight question put to him by a Government servant in high position, Dr. J. C. David, who recently

retired as the Surgeon-General, whether the President used undue influence over Kuttappa while serving as Returning Officer. The latter question was asked by Dr. David, during the deliberations of the Medical Council on the memorandum of objections of the defeated candidates. The same Kuttappa did confirm his statement that the President as a candidate had nothing to do with the Returning Officer, when he appealed in April 1947 to the Members of the Medical Council to re-instate him. The Government had commenced proceedings to dislodge me and six other successful candidates soon after Hon'ble A. B. Shetty as Public Health Minister entered office and took the six candidates under the protection of Government. By this time Sri Kuttappa was no more the Registrar of the Council and I would not re-instate Kuttappa in spite of the interference of Sri Shetty who pleaded with me to consider the financial stringency of Sri Kuttappa. The defeated candidates became the friends of Sri Kuttappa, (a friend of the Public Health Minister) during his financial stringency. They had common grounds of spite against me though the causes were different. Birds of the same feather of spite flocked together in the specially Government made tribunal with a Government Pensioner aspiring for re-employment which was bestowed on him soon after the farce of an enquiry was over.

The Special Officer did shatter to pieces all his experience as a senior judge and with it, the sense of justice, fair play even the code of morality. He had attempted to cover his own sins of omission and commission to build up a plot against me, engineered by the Government to oust me from my position as the President of the Council. It might not be irrelevant, if I were to mention that the Special Officer believed a concocted story narrated to him by Dr. Venkappa that I got a lunatic to vote for me and the lunatic reported by the Special Officer is one Dr. Madhava Nayak, a living Govt. pensioner at Mangalore now bed-ridden who would retort the false statement recorded by the Special Officer and might say that the author of

the reckless report is himself a lunatic. I was the real target of the Government and not the Medical Council. This could be seen not only from the confidential report of the Special Officer but also from the Secretariat files going round and round from Public Health Department to the Legal Department and from the latter to the Finance Department. I am in possession of these documents of the Government as they were inadvertently or knowingly included in the bundle of documents in the C. M. P. 9975 of 1949 when I and three other successful candidates filed a petition in the High Court praying for a writ of *certiorari* to quash the decision of the Surgeon-General declaring the Medical Council elections of 1946 void and ordering fresh elections. The pertinent 3 paragraphs found in the Secretariat files as referred to by me above appear below :—

1. "In other words, I am not sure whether the Government can set aside the elections as such. But they can certainly appoint some one to remedy the neglect or abuse. The abuse and neglect in this case by the council is really the failure to go into the objections to the elections under rule 19 and have been described in G. O. 640 P. H. dated 2-3-1948. The abuse and neglect should apparently be laid at the door of the President and the Registrar who are the prescribed persons concerned with those matters and not the Council as such."

2. "I am not sure how the President can be got rid of "until the new elections have been held" would mean that Government are prejudging the issue reaction by the persons appointed to act under Rule 19. "M" above should therefore be conveyed by means of executive instructions and the period of appointment of the person may be from 15-8-1949 to 31-12-1949. As the person has to be given executive instructions also it would be more proper to appoint some one in the service of Government. Orders as regards the persons to be appointed will be obtained later."

3. "The findings of the Special Officer and the all connected records sent by the Special Officer may be forwarded

to him with a covering D. O. with instructions to set aside the elections and to call for fresh elections. Subject to approval two drafts are put up".

There is no provision in the existing Medical Act for the removal of the President by the Government. All the same though there is no special provision in the Medical Act, the Council who elected him could censure him, as the Council elected him. Soon after I received a communication from the Surgeon-General that he was to enquire about alleged elections irregularities, I wrote to him to supply me with a copy of the report of the Special Officer and he refused to do it saying, the report was confidential. The right thing to do would have been to place the report before the Medical Council and demand an explanation from me, the President and then take suitable action against me and the Registrar at whose door the Secretariat file wanted to keep the election irregularities.

The Government took shelter under section 22 of the Act without legal authority and made it appear that the Medical Council was the Government target but really made its President the target. This is evident in paragraph I of the Secretariat file. It could be seen from the 3rd paragraph of the Secretariat file that the Government took the extreme step of giving written instructions to the Surgeon-General "to set aside the elections". The Surgeon-General made no judicial enquiry of his own and he merely obeyed the orders of the Government and set aside the elections of 1946.

The above three paragraphs have materials for censuring the Government. I had information that the Special Officer before taking charge as such, saw the Chief Minister and expressed to him as to what he was expected to do in an enquiry in regard to elections which took place three years before the date of his appointment. He was asked to see the Deputy Secretary, Public Health Department, who in his turn directed him to see the Health Minister. What happened in the Public Health Minister's room might at least be

presumed basing on the three paragraphs appearing in the Secretariat file. He might have apprised the Special Officer that in case his friend, Kuttappa was also made the Respondent as he ought to have been along with the President (as suggested in the Secretariat file paragraph 1) the whole case against Kamath would fall.

I did apprise the Government repeatedly that what they had been doing was without authority and *ultra vires*. That section 22 of the Act could not empower the Government to initiate an enquiry of the nature entrusted to the Special Officer, is evident from the fact that the proposed Bill has an amendment to section 22, for empowering the Government to hold an enquiry under the latter section. That the Government did know their weakness in having ordered an illegal enquiry is also evident from the fact that the Surgeon-General was ordered to make another enquiry for the same purpose and the Government armed themselves at this stage and brought about a new rule (Annexure 6). The defeated candidates had a right royal legal remedy to question the decision of the Council on their Memorandum in the law courts. It could not be said that Dr. Venkappa the leader of the defeated candidates was ignorant of the legal remedies. In 1935 Dr. Venkappa had recourse to a legal remedy in the city Civil Court, Madras, for setting aside the election of one Dr. Suryanarayana Rao on the plea that the President of the Medical Council did not follow a time honoured convention or usage in not sending the election Precept to the voters. His Advocate was the present Advocate-General. Dr. Venkappa was not a candidate for the election questioned by him in 1935. He went about collecting money for meeting legal expenses. He failed to prove his case in the court. He did not render account of the money collected by him.

In 1935 the persons who formed the Government were quite different from those now in the saddle. The Surgeon-General was the Ex-officio President of the Council and not an elected person. Dr. Venkappa made a much easier bargain in 1946 elections. Evidently he

was nervous to get justice in any Court and relied on the Government. He could get a member of the State Legislature to uphold him on the floor of the Legislative Assembly. The Hon'ble member when he failed at first to achieve what Dr. Venkappa wanted him to do, took advantage of the turn of events in his party and was able to do the task to the entire satisfaction of Dr. Venkappa and his team of defeated candidates.

The real and the only sin I committed was to resist series of Government illegal orders with the unanimous support of the council. The Government did employ unclean methods and weapons culminating in a farce of an enquiry.

The Government took full three years to engineer a plot against me to be able get suitable actors and cook evidence but they did fail miserably on legal and moral grounds. They know me and my record of work both as an ordinary member and as elected President of the Council. It was not difficult for a mighty Government to do what they did finally.

The allegations and insinuations found in the Special Officer's report have to be emphatically denied by me. There was no need for me to use the office of the Medical Council, and to make use of my position as the President of the Medical Council for furthering my own election and adopt any unfair means to see that my team topped the poll. In making this reckless and unworthy insinuation against me, the Government went a step further even than the defeated candidates themselves and after three years the Special Officer added two more irregularities. The Government are fully aware of my popularity in the medical profession both official and non-official. I have been in the Medical Council continuously from 1929 first as a member and from 1944 as its President. I have been an elected President of the Council for four consecutive terms continuously. There was competition for the Presidentship only for the first term and for the other three terms, my election as President has been unanimous and without contest. From the very beginning, when I stood for the

Medical Council elections, I always topped the poll. Dr. Venkappa the defeated candidate who is the 1st signatory to the memorandum of allegations against me in the elections, was my rival in two previous elections along with six more candidates. In the first election held in 1929 I topped the poll securing 628 votes out of 1,267 polled and he got 212. In the second election held in 1934, I topped the poll with 1,258 votes, the largest number secured by the next candidate being only 66 votes and Dr. Venkappa getting only 7 votes. He withdrew from the contest a few days before the results were announced as he practically had no support as indicated by the votes he secured. I might also state that the then ex-officio President of the Council, the Surgeon-General noting the result of the Medical Council election in 1934, recommended to the Government to introduce a Rule demanding an election deposit. In 1940, the elections were held under the Madras Medical Registration Amendment Act. The Surgeon-General was the Returning officer. I then contested the election with a team as I did in 1946 and my team topped the poll.

It will thus be seen that there was no need for me either to use the office of the Medical Council nor take advantage of my position as President for promoting my interests as a candidate for election to the Medical Council. The references to the previous Registrars of the Medical Council could not be irrelevant, and the reckless allegations made by the Special Officer regarding their appointment and removal are untrue. Sri Madhava Rao resigned as a result of his own misconduct and incompetence to hold office. There was an enquiry into his conduct as Registrar and in the course of the enquiry, Sri Madhava Rao tendered his resignation evidently to avoid what he must have anticipated as the inevitable result of such an enquiry and an additional black mark on his conduct, as he had already been condemned as an official receiver in Salem. Sri Kuttappa the other temporary Registrar whom I was compelled to appoint to meet an emergency

On the eve of the 1946 elections on account of Sri Madhava Rao's quitting office, was the Manager of the Surgeon-General's office and acting as Accounts Officer in that office at the time. At first he was appointed as part-time Registrar of the Medical Council in addition to his duties in the Surgeon-General's office. Sri Kuttappa had applied to the Surgeon-General for extending his service as Assistant Accounts Officer. In the circumstances it is absurd for the special officer to state that Sri Kuttappa, a Gazetted Officer whose services had merely been lent to the Medical Council to do part-time work as Returning Officer and Registrar, would give any improper assurance to a non-official President of the Council who could not bestow favours or patronage in the way the Surgeon-General could. Sri Kuttappa is a disappointed man as he had not been re-employed as Registrar, Medical Council, in spite of the pressure brought to bear on the President by a then prospective Minister in charge of Public Health who by that time had taken the defeated candidates under his protection. Even more unfounded is the statement that Sri Kuttappa as Returning Officer could not act impartially as Sri Kuttappa had been lent by the Government to serve the Medical Council only for a period of three months i.e. for the period of the elections. Sri Kuttappa's own statement that he, "*successfully managed the heavy work, connected with the Madras Medical Council Elections as Returning Officer, independent of the President as he was himself a candidate,*" quoted by me earlier in this Memorandum should prove that the Special Officer himself did go out of the way to allege recklessly that Sri Kuttappa had to go out of the way to please his boss, Dr. Kamath. The conduct, of Sri Kuttappa and Sri Madhava Rao were subject matters of proceedings which were unanimously approved by the Medical Council and duly forwarded to the Government. As stated by me above, the whole staff who conducted the Medical Council Elections in October 1946 including Mr. Kuttappa, the Returning Officer, was requisitioned by the President from the office of the Surgeon-General for part-time service,

and it would have been impossible for a non-official President to adopt questionable means and methods in his favour during elections as alleged by the Special Officer. Yet the Special Officer could get nerves from the Government to say that the President used unfair means to see that his team topped the poll. Far from the President using undue influence on any of the Registrars including Sri Kuttappa, who was a Government servant while serving as Returning Officer, for the elections in question and a Government pensioner during the period of the Special Officer's enquiry, it is the Government who always had control over their officers and pensioners that did actually influence them as in the case of Sri Kuttappa to make false allegations against the President. A gross instance of the Government's and the Special Officer's improper activities in this direction, is afforded by another temporary acting Registrar also a Government Pensioner who was also removed from service as he prevented even the President's entry into the Medical Council office evidently under instructions from Government locked-up the Medical Council Office and handed over the keys to the Advocate-General. This happened during the stay ordered by the High Court in C. M. P. 9975 of 1949 against the decision of the Surgeon-General declaring elections void. This Registrar had been behaving like a cobra under green grass, making it appear to me that I need not apprehend any danger from him. He did bite me in the end and it could be presumed that he had much to do with the tampering of the Ballot Box lying on the verandah of the Secretariat outside the room of the Secretary, Public Health Department. For he had the key of the Ballot Box as revealed to me in his report submitted to me regarding the opening of the Ballot Box by the Special Officer.

The following remarks of the Special Officer appearing in the 17th paragraph of his report are worth the kind notice of the members of the Committee.

"Before I proceed to deal with the objections raised by the defeated candidates in their memorandum, I have to

place on record the attitude of non-co-operation on the part of Dr. Rama Kamath, the President of the Council. He was placing obstruction in my way. He did not permit his present Registrar to give me the names and addresses of successful candidates to enable me to issue notices to them and hear their representations. He did not produce the documents, he was required to produce and would not say what became of them".

Not obeying illegal Government orders has been mis-interpreted as non-co-operation. I had the authority of legal opinions for what I did as well as the approval of the entire Medical Council. As stated by me above the Special Officer had no independent oral evidence much less any documentary evidence except the contents of the Ballot Box whose seals were found tampered with at the Secretariat. Rule 16 of the rules on election is definite that the records of elections should be destroyed six months after the date of elections. It is to be deemed that any enquiry after the lapse of six months, is time barred. The Special Officer made it appear to me that he was a court though he wrote at the same to the Government (on 13.6.1949) amongst other things as stated by me earlier that he should be invested with the powers of a Civil Court to enforce attendance of witness and productions of documents by the witness. He enclosed in the cover addressed to the Government, a copy of summons issued to me where in he threatened me that if I failed to appear I would keep myself liable for the penalties provided under the law for disobeying the orders of a public servant. In the same letter he recommended to the Government to prosecute me under Indian Penal Code.

I replied to the effect that the President, Medical Council and the Council had made their position quite clear that the special enquiry was wholly illegal, *ultra-vires* and unconstitutional. The Special Officer was also informed that any action taken by him against me for not heeding his summons would be futile. If the Special Officer had power to punish me and other

successful candidates who would not appear before him by any means, he would not have hesitated to take drastic action against us. He had the Government at his command. But nothing was done as he and the Government were quite conscious that what they were doing was wrong and could not have legal sanction. Yet the enquiry was gone through with no documents except those found in the tampered Ballot Box and basing on the findings of the Special Officer, the members of the Select Committee have been requested to consider the proposed amendment Bill.

It was a very unfortunate circumstance that though the bundle of Government documents containing the confidential report of the Special Officer submitted to the Government, the learned Judges who sat in judgment in C. M. P. 9975 of 1949 did not think it worth while to go through this report. Perhaps the scope of a writ application did not permit them to go into the question of the allegations of irregularities contained in the Memorandum of the defeated candidates though they were the main ground for all troubles between me, the President, Medical Council, and the Government. When our learned Advocate was arguing, the learned Chief Justice stated to the effect that the Medical Council though a tribunal to go through the election disputes, was not empowered with the powers of a Court as in Sections 13 and 16 of the Medical Act dealing with disciplinary control over Registered Practitioners, in trying whom the Medical Council had been empowered with the authority of a Court. To the learned Chief Justice the matter of election disputes appeared something like a domestic affair. In fact, the learned Chief Justice said so. His Lordship and his colleague did not examine the question whether Section 22 of the Act contemplated an enquiry of the nature as conducted by the Special Officer. The decision of the Surgeon-General was actually a reflected image of the findings of the Special Officer without a life of its own. He was actually instructed to make use of the findings of the Special Officer to

invalidate the 1946 elections to the Medical Council. The Surgeon-General implicitly obeyed orders. Only point for dismissing the writ application was the violation of principles of natural justice though the learned Judges referred to the fact that neither the President nor the other members of the Council, the successful candidates did not take any part in the deliberations of the Council. In the very letter of the defeated candidates to the Registrar Medical Council, objecting to the elections, they had asked that copies of their letters should be sent to all the members of the Medical Council and that they should consider their objections in the interests of the Medical Profession. If my learned Advocate did not press his objection to the theory of natural justice on which the Hon. High Court relied, it was because this theory was not given as much importance by all concerned during the argument stage as it was given in the judgment where it was stated under the authority of English Law Reports that mere presence of parties in a tribunal would vitiate the principles of natural justice. The Constitution of India permits the Speaker of the Parliament of India to be not only present but also to take part in the discussion when a censure motion for his removal is the subject matter before the Parliament (Vide Article 181 (1) & (2)). I am merely mentioning this for what it is worth, to indicate how far mere presence of interested parties could effect a decision of a tribunal whose functions were not laid down in the Medical Act or in the rules framed thereunder much less the methods to be adopted in an election dispute. In the Acts concerning all self-governing institutions, there is a clause that an interested member of the institution should not be present at the meeting of such a body. Nothing to this effect finds a place in the existing Medical Registration Act which has constituted a Council of 15 members, out of whom 7 members contested successfully the elections of 1946 and without whom or at least a few of whom there could never be a quorum for the Council Meeting.

It appeared during the argument stage of the writ application, that the learned

Judges favoured the arguments of my counsel as against the arguments of the learned Advocate-General. In fact, the learned Advocate-General made a suggestion whether I would agree to have the case remanded to the Medical Council. But our learned Advocate was so jubilant of his success that he turned a deaf ear to the latter suggestion. The learned Chief Justice did opine that Rule 19 was very defective. It was indeed the misfortune of the successful candidates that they were made to suffer for defects in Rule 19. Ends of justice demanded that the benefit of bad law should be given to the innocent sufferers. In fact, the Government under Prakasam's Ministry held this view. The obsession of non-cooperation appearing profusely in the Government files, did actually shroud the real issues of the illegality of Government orders. Myself and the Medical Council could not act on illegalities from whatever source they came. There were enough and more materials to question the order of the High Court in the Supreme Court. But I didn't do so. The matter was not a personal one and more than anything else, I have been a long standing surgical patient and could not think of the idea of going to New Delhi for this purpose.

Hon'ble Members may kindly note what appears in the last two paragraphs of the learned judgement of the High Court as quoted hereunder:

*"It is most regrettable that elections held in October 1946 have been held to be void in November 1949. Section 22 of the Act contemplates immediate action on the part of Government but this case reveals long delays. The Government in their order of March 2, 1948 gave the Council time till March 28 to.....175—G.G. 25.....remedy their neglect and abuse of power but the Council refused to do so. Nevertheless it is only on April 20, 1949 a year later that the Government take the next step not strictly falling within section 22.*

*We May also point out that Rule 19 needs to be amended, as the learned Advocate General himself conceded".*

It is evident from the above paragraphs that the Government could not

get materials and actors to bring about a plot against me as promptly and as quickly as the occasion demanded. They had to concoct and fabricate evidence and get suitable actors to play the farce of an enquiry.

It is also evident that whatever might have been said by the learned Judges in the earlier part of their order, they finally agreed to some extent at least, with the legal view of the President and the Medical Council as repeatedly dinned into the ears of the Government as to the non applicability of section 22.

In a letter to the Special Officer addressed by the leader of the defeated candidates which contains high flown encomiums on the Special Officer for having done justice to them, the following paragraph appears amongst many others which serve as an epilogue to the dramatic plot against me :

*" In the light of the above facts which the petitioners were able to gather and place before you after a period of over two years and eight months with great difficulty and handicaps, the petitioners pray for justice at your hands in the interests of the registered medical practitioners and their conduct guided and controlled by the Madras Medical Council established by law."*

This paragraph adds weight to the delay to enact the plot against me with methods and means, most heinous.

I and the Medical Council would have been quite in order if the Ballot-Box was not sent to the Secretariat and the Registrar destroyed the records of the election as demanded by Rule 16 on elections. The Government had no powers to take away the Ballot-Box from the custody of the Medical Council. In fact, before sending the Ballot-Box to the Government, I went to Secretariat and not being able to meet the Public Health Minister and the concerned Secretary, I saw the Assistant Secretary who assured me that nothing was going to happen and added that a M.L.A. had given notice of a resolution

regarding Medical Council elections and the Government thought it might be advisable to have Ballot-Box at the Secretariat. The then Assistant Secretary was a person well known to me and we had common interests in matters, spiritual. So I could not disbelieve the *bona fides* of the Government as stated by the Assistant Secretary. I could never apprehend that the matters would take a different turn which they took later. I did not interfere with the Returning Officer's duties and responsibilities. If I did, I would not have sent the Ballot-Box to the Secretariat. Depending upon honesty, truth and integrity which marked my administration, I could not be nervous of my *bona fides*. The Government could not have been able to touch me and the Medical Council if I refused to send the box to the Secretariat. I would have safely put an end to my troubles and those of the Council. The highly insinuating and defamatory statements recklessly made by the Special Officer in regard to the alleged delay in sending the Ballot-Box to the Secretariat is another flagrant myth concocted by the Special Officer.

Col. S. L. Bhatia now Major-General was instructed by the Government officially to investigate the matter regarding the objections of the defeated candidates nearly two years before the Special Officer's enquiry (Annexure 4). I was requested to help him with all facilities. I would have gladly helped him but for the fact that the Government Memorandum stated that the action they were taking was under Section 22 of the Medical Act. I took legal advice (Annexure 2) and pointed out to the Government with the approval of the Council that the Government had no power to act under Section 22 of the Act in regard to the council elections. Major-General Bhatia had been a good friend of mine and is so even now. He would have believed me more than the cock and bull stories of the defeated candidates. My sense of honour would not permit me to take advantage of his friendship. A few months later, Major-General Bhatia was once again instructed by the Government to go through the matter himself. This I came to know at Mangalore

where we both travelled together in the month of March 1949. He requested me to send him election files after his return to Madras. I was silent. In the meanwhile I learnt that the Government did not want him to proceed as evidently the then Public Health Minister, a Mangalorean came to know from Mangalore that I was found moving very intimately with Col. Bhatia.

When the Surgeon-General, the same Col. Bhatia had instructions to declare the election invalid and after he actually did so, he came to me and expressed his sorrow. I told him, "you are a Bhishma who had to serve the Kauravas against his will though their cause was unrighteous." It will interest the members of the Committee if I were to narrate a similar episode in my life when I was a Councillor of the Madras Corporation. The Excise Department foisted a case against me for not holding licence to dispense opium preparations, though medical practitioners could possess a limited quantity of excisable drugs for the use of their profession but not for sale. The Police Commissioner was the officer to conduct prosecution. The position of Commissioner of Police was not dissimilar to that of Surgeon-General who was expected to know a Medical Practitioner much better than the officer of the Police Department. I did not see the Commissioner of Police to influence him any way. On the other hand, I declined to take in his suggestion that if I took a licence, the prosecution would be withdrawn. In spite of my non-co-operation, the Police Commissioner wrote to the Government more or less to the effect, "Dr. Kamath as a public man, has been always attempting to purify administration, I cannot prosecute him". The Police Commissioner must have known my work as a Councillor of the Madras Corporation. I am only mentioning this episode to point out the level of morale that existed in the Government Departments during foreign Rule and now.

There was another right loyal way to win the approbation of the Government at the same time manoeuvre

to kill the Government illegal order under Section 22 of the Act. The Council consists of 15 members, 7 elected by the general constituency, 5 Government officials belonging to different medical colleges and three nominated members. The only members who attended more regularly council meetings were those belonging to the 1st group. Due to exigency of service such as University examinations etc., the 5 Government officials could not be quite regular in attendance at the Council meetings, much more the nominated members, with the result that there would not have been a quorum of 7 members for the meeting of the Council without the President and at least a few members belonging to 1st group to have a quorum to enable the Council for sitting in judgement, to carry out the high sense of natural justice, adumbrated in the learned judgement of the High Court. If meeting after meeting was summoned, there would not have been a quorum of 7 members and even by a remote chance there were a quorum, the Medical Council would not have gone against its own decision which the Council declared on the memorandum of objections of the defeated candidates and which it did without the interference of its President and the other six members of the Council, the successful candidates. The Public Health Minister, with his trusted Secretary, the Law Minister with his entire Legal Department and the Finance Department of the mighty Government would not have had the courage of winning over any member of the Council even by a D. O. by which means, the Government ordered the Surgeon-General to declare the 1946 Medical Council Elections void. The bundle of Government documents with the orders to the Surgeon-General was before the High Court. But alas! the sense of natural justice weighed entirely towards the defeated candidates as against the mere presence of the successful candidates at the meeting of the Medical Council. The deliberate order of the Government to the Surgeon-General to invalidate the elections which amounted to a culpable crime, was certainly more heinous than the violation of the principles of natural

justice complained of by the Government and finally upheld by the Hon'ble High Court. But straight honest methods do not yield immediate results. It was so with the fight between the mighty Government and myself, a humble person.

The Government must be fully aware of my popularity with the Medical Profession as could be evidenced from the proposed Bill. They apprehended that I might contest elections again and might be installed once again as the President of the Medical Council. To prevent this eventuality they had proposed that the Director of Medical Services or his Deputy should be the future President of the Council. They have also proposed another amendment even to remove from the Council, a member not wanted by them. Now that I am not contesting elections, it is just possible that some of the amendments proposed in the Bill might be withdrawn. The Public Health Minister has magnanimously prepared a way to it by suddenly resigning after he introduced the Bill.

Whatever be the merits or demerits of the necessity of going through the confidential report of the Special Officer whom the Government appointed illegally for the only purpose of removing me as the President of the Medical Council, you have a responsibility to maintain purity of Administration which should be discharged without fear or favour. I am a respectable citizen who had been serving the medical profession

in and outside Medical Council, being elected to do so always with a thumping majority. For 3 terms, I was elected unanimously by the Medical Council without contest. I had to contest a formidable opponent only once at the very 1st election of the President. Though I have been an uncompromising critic regarding Government Medical Officers, I could command the support also of Government officials to serve my brethren in the medical fraternity. The abominable reckless abuses hurled at me by the Special Officer most uncharitably and by the two ministers on the floors of the State Legislature, behind my back, would remain a blot on the non-official block of the medical profession of which I was only a bird of passage. My administration as an non-official President of the Medical Council had been of highest order both in quality and quantity as evidenced by my successive elections as the President of the Council. It was my selfless service to the medical profession that was responsible to enable me to be elected to the position I held as the President of the Madras Medical Council.

I appeal with all humility and sincerity at my command that the Hon. members of the Select Committee may kindly not mind persons but take in to their consideration high and noble principles of democracy and give me a chance to represent my case before them personally or suggest to the Government to hold a public enquiry regarding my conduct as the President, Madras Medical Council.

The Medical Practitioner was brought into existence by me in 1929 as a result of a pledge given by me during my electioneering campaign to represent the Medical Licentiates in the Madras Medical Council. In 1943 I fell ill and had to undergo a preliminary operation for preparing myself for a radical operation later. In the middle of the year 1944 I was elected as the President Madras Medical Council. I could not stand the strain of editing the journal whose columns were mainly intended for the uplift of my professional brethren without interfering with the position of my more fortunate brethren in the higher academic ladder. In fact my aim was for the merger of both even at the cost of the disappearance of my brethren in course of time. This was attained in about the year 1939 when the Government abolished the licentiate course and established one uniform course of university standard of medical education. In 1938 another reform for which The Medical Practitioner had been striving hard for establishing a common Medical Register arranged in alphabetic order and not in three water-tight compartments, took shape. Enlargement of the scope of honorary medical service was another plank of reform on which The Medical Practitioner stood. By 1944, it was possible to see that the activities of the journal in this direction fructifying both in quantity and quality. The only activity of the journal which did not yield the expected fruits, is the Subsidial Rural Medical Relief Scheme which was dwindling from bad to worse after the National Congress leaders got in the saddle of the Government. It is indeed a very sad irony that the disciples of Mahatma Gandhi who was responsible for the installation of the Congress Governments in the Indian Union, have been very callous to the welfare of the villages, which was dear to his heart, in spite of the fact that the villages had 90% of the entire population and have been the main source of income to the Government. In all the so called village reconstruction schemes and even in the

National Planning Scheme of the Central Government, not much importance is given to the welfare of the people.

After I was elected as the President of the Madras Medical Council, I have been in a serious dilemma whether I should publish 'The Medical Practitioner' or wind it for good. The Medical Practitioner was not a professional journal so to say. I had to write from A to Z in the journal as no body else could do this work. I was growing infirm and old to do the strenuous work of medical politics. In the meanwhile my unfinished work regarding Rural Medical Relief was staring me in my face. Quackery has been making rapid strides in the villages as the Congress Government were bent upon recognising quackery in some shape or other. As The Medical Practitioner is the official organ of Madras Provincial Subsidial Rural Medical Practitioners' Association I consulted, the Working Committee and the committee unanimously decided that The Medical Practitioner should be revived. In the meanwhile a large number of medical men in and outside Government service, were pressing me to bring out the journal as they felt no medical journal was dealing with the questions regarding medical profession in the way, The Medical Practitioner had been doing. The affairs of the Madras Medical Council has served as an incentive to begin my services afresh to the profession, through the journal. I appeal to the members of the profession to patronize the journal with the same zeal as in the past. The future of The Medical Practitioner depends entirely on its patrons. I never made any profits in the past on account of the journal nor will I run it for gain in the future. The Medical Practitioner is entirely a concern of the medical profession. It will be alive so long as it is fed by its members.

V. RAMA KAMATH.

DR. KAMATH *Versus* MADRAS GOVERNMENT.

The 1946 elections and the series of acts of the Madras Government to unseat Dr. V. Rama Ramath from the position as the President Madras Medical Council for resisting illegal orders of the Government, based on cock and bull stories of six defeated candidates out of sixteen all of whom were thoroughly defeated at the elections, is the subject matter of a Memorandum to be submitted by Dr. Kamath to the Select Committee, appointed by the Madras State Legislature to consider the Bill to amend the existing Madras Medical Registration Act. The Memorandum is published in these columns elsewhere and the readers are requested to go through it, to be able to follow the events referred to in these columns.

While introducing the Bill to amend the Madras Medical Registration Act, in the two houses of Legislature, in the middle of September 1951, the Public Health Minister and the Law Minister poured forth most venomous false statements against Dr. Kamath which they said were based upon a confidential report submitted to the Government by a Special Officer appointed by them in April 1949 nearly three years after the date when the results of the 1946 elections were published. Dr. Kamath challenged the Government to come out of the privileged walls of the houses of Legislature and repeat what the two ministers said within them. So far they are silent. The Special Officer held an enquiry on the Memorandum of objections complained of by the defeated candidates who were styled as Petitioners by the Special Officer and the seven successful candidates—the President of the Medical Council Dr. Kamath and six members of the Council were styled as Respondents. The latter refused to appear before the enquiry officer who was asked by them to mention the authority basing on which, the enquiry was to be held. The Special Officer was silent though in the summons to Dr. Kamath as the President of the Council, he threatened to take action for disobeying the Special Officer. This he never did. It is thus

evident that the enquiry had no legal sanction.

The farce of an enquiry which was actually a conspired plot, the actors being the Government, the defeated candidates and Kuttappa who was the Registrar of the Medical Council and whose services were dispensed with by the Medical Council for misconduct and incapacity. Mr. Kuttappa was the Returning Officer who conducted the elections in 1946. His services were lent to the Medical Council by the Surgeon-General to do part time work along with 5 or 6 clerks belonging to the office of the Surgeon-General. Mr. Kuttappa appealed to the members of the Medical Council for re-instating him and in his appeal he said among other things that he conducted the elections independent of the President.

The evidence before the enquiry officer was only from the defeated candidates. The petitioners were not able to get even a single voter, outside the defeated candidates though there were as many as 3087 voters who took part in the elections. This was made up and Mr. Kuttappa who, as Returning Officer was solely responsible for the conduct of the elections, was transformed into a sort of approver by the Special Officer, evidently under instructions from the Government and was styled as a "subservient" and "willing subordinate" of the President, Dr. Kamath to make it appear that the Returning officer committed irregularities under the behest of the President. Mr. Kuttappa could not be a subservient subordinate of Dr. Kamath under any stretch of imagination as while acting as the Returning officer, he was directly under the Surgeon-General and his services were lent to the Medical Council to do part time work. Only one atrocious falsehood appearing in the report of the Special officer, may be stated to indicate to what extent, the defeated candidates, and the Special Officer went and concocted evidence against Dr. Kamath. It is alleged in the report to the effect that Dr. Kamath got a vote of a lunatic, one Dr.

Madhava Nayak, a retired Civil Assistant Surgeon, residing at Mangalore and forged his signature in the declaration paper. Dr. Nayak though ill and bed-ridden, is still in Mangalore, and would indignantly say that those who were responsible for the false defamatory statement appearing in the Special Officer's report, are mad and he may in addition hold them liable for civil and criminal action for the libel.

After the confidential report of the special officer reached the Government, it was found at the Secretariat that the Government could not annihilate Dr. Kamath on the legal and constitutional field of battle between him and the Government who took the defeated candidate under their protection as the defeated candidates must have thought it very risky to seek relief in a court of law for the elections irregularities alleged by them. The Government had recourse to a new Rule which did not exist prior to 1946 elections, as they found that even under Section 22 of the Act, the Government had no power either to hold an enquiry or invalidate the elections. Under the new rule they transformed the Surgeon-General into a tribunal to go into the elections dispute a second time. The Surgeon-General was ordered by a D. O. letter to declare the elections invalid even before he held a bogus enquiry. The President and the Medical Council who throughout acted on legal advice, would not recognise the Surgeon-General as the Medical Council and the Surgeon-General obeyed his masters' orders and declared the elections invalid and ordered fresh elections. The means and methods adopted by the Government are unknown in the annals of the histories of any Government either here or elsewhere. Apart from the injustice done to Dr. Kamath and his team of successful candidates, this single act of Government in tutoring the judge appointed by them that he should pronounce judgment as per the orders of the Government, is enough to condemn them and unseat them.

Though Dr. Kamath was removed from the Medical Council, the Government knew his popularity with the members

of the medical profession and apprehended that he would come back to the Council, if elections were held. They also knew that if returned to the Council, he would be at the helm of the Medical Council, judging from the past when Dr. Kamath continued to be the President for four successive terms and that without contest. It must be also within the knowledge of the Government that ever since Dr. Kamath entered the Council in 1929, he gave lot of troubles as an ordinary member of the Council, to the successive Surgeon-Generals, the ex-officio Presidents of the Council, in his fight to ameliorate the lot of the independent medical profession who have been suffering from the objectionable policy of the Government in showing invidious distinctions between state-paid practitioners and private practitioners. To meet such a contingency, the Government have come forward with a Bill to amend the Madras Medical Registration Act, for reverting to the old order of things and have a Government nominated President in the person of the Head of the Medical Department, his Deputy or a hunchman of the Government. They have also proposed another amendment amongst a few others of lesser import, providing for special powers to the Government to remove from the Medical Council a member not wanted by the Government a piece of legislation, the like of which is not known in any constitution. There is a provision in the Indian Constitution to remove a member of the House of People for misconduct or misdemeanour not by the Government but by the House of People itself.

The Madras Government seem to have gone amuck due to want of control over them. Time is ripe and events are opportune either to bring them to their senses or unseat them altogether. The members of the medical profession are trusted by the people, rich or poor. They are in a position to remedy the ills from which the public suffer, for want of a good Government. They can administer a very good remedy from their chairs in their consultation rooms, quietly without any fuss, by advising their patients not to vote for the members forming the present Government.

## THE MADRAS MEDICAL COUNCIL BEFORE AND AFTER 1944.

The Madras Medical Council came into existence in 1915 and till 1944 the President of the Council was the Surgeon-General with the Government of Madras, in his ex-officio capacity. In the middle of the year 1944 Dr. V. Rama Kamath was first elected as the President of the Council by the members of the Council. From the year 1929 till 1939 he represented the Medical Licentiates and all and sundry practitioners who were not the graduates of the Madras State Universities and who were not also in the British Medical Register. From the year 1940 Dr. Kamath represented all registered medical practitioners whose names are found in the Madras Medical Register.

In 1929 the office of the Medical Council was located in the residence of the clerk of the Council and the Registrar of the Council with L. M. & S. qualification attended the office as and when he had leisure as he practised his profession in spite of his being a full time servant of the Council. During the 1929 elections Dr. Kamath found in the course of his electioneering campaign that there were a large number of practitioners possessing certificates indicating their Registration in the Provincial Register but their names were not found in the Register. It was not possible for him then to find out the cause of such an anomaly. After his entry into the Council, when he was at an enquiry in regard to disciplinary action against a registered practitioner, Dr. Kamath accidentally came across a hand-written medical Register in which lot of pages were torn. The matter was then and there reported to the Surgeon-General, the then President. Later the matter came before the Council and a committee was appointed by the Council to go into the matter. The committee found out with the help of the Council auditor that a little over Rs. 5000 had been defalcated and a large number of names of the practitioners who were issued by the Registrar certificates of registration, did not appear in the printed register and there were lot of errors in the cash book maintained by the Registrar. This episode cost the

council Rs. 5000/- and the clerk only was prosecuted and sentenced to imprisonment. Dr. Kamath would not stop there, he got the names of the practitioners who possessed the Registration Certificates entered in the Medical Register and saw to it that the Registrar who was responsible to convert the Council into a State of Denmark, was removed from office making good part of the money, lost by the Council. All this work Dr. Kamath could do by giving notices of resolutions. Till the entry of Dr. Kamath into the Council not a single member had recourse to such a procedure to serve the members of the medical profession.

The Medical Registers which are the only documents to prove Registration of practitioners with their qualifications and which had to be published before the end of the January following the calendar year during which period the practitioners got registered, were not published in time and the Registrar took even 2 years after due date to publish the same. Dr. Kamath eventually succeeded at least to get the Registers published earlier than before.

In addition to the improving the administration of the Medical Council Dr. Kamath had been doing all that was possible, to put a stop to the invidious distinctions shown by the Government between State-paid practitioners and private practitioners but the Government had been callous and even adamant. The callousness is seen more now than during British Regime. Only one thing could be achieved by Dr. Kamath in this direction and that is, the abolition of the baneful procedure of getting countersigned the Medical Certificates issued by private practitioners by the Government Medical Officers. But the Government introduced another objectional procedure of obtaining second opinion on the certificates issued by private practitioners. At the instance of Dr. Kamath, the Medical Council unanimously protested against the latter procedure but with no effect.

At the instance of Dr. Kamath the Indian Medical Degrees Act was amen-

ded to make it easily possible to prosecute quacks from assuming bogus medical qualifications. During the period when Dr. Kamath was the President of the Council a large number of quacks were recommended to the Government by the Medical Council for prosecution. But the Government did not take action in a large number of cases. One such glaring case should be mentioned as the complainants in this case were Registered Practitioners of Anantapur, who brought to the notice of the Medical Council that a person assuming bogus degrees was put in the list of qualified practitioners for doing inoculations against cholera. The Council warned the Municipal Health Officer for his indiscretion but they could do nothing to the bogus practitioner as it was the Government who should prosecute him. The Medical Council recommended his prosecution. This bogus practitioner was a Councillor of Anantapur Municipality and he was managing to get his certificates recognised by the Revenue Department, Police Department not to mention about the other Government Departments. The Government would not prosecute him as it was reported that a henchman of the Government managed to hush up the case. This bogus practitioner is still at large hampering the growth and prosperity of the scientific medical profession.

During the regime of the ex-Officio Presidents of the Council, it was possible for persons holding bogus qualifications to be in the Provincial Medical Register. One such person was a compounder, working in the Raja Ramaswamy Mudaliar lying in Hospital, attached to the Stanley Medical College then Royapuram Medical School. This compounder was later able to be a Honorary Presidency Magistrate. Dr. Kamath, while serving as an ordinary member of the Council, was able to detect these fraudulent registrations and got the Medical Register weeded out of their existence.

There were quacks and charlatans mostly in villages during foreign rule. Dr. Kamath did his best to reduce their number when he was an ordinary member of the Council and after he became the President, he led a crusade against

the quacks and the Council requested the Government more than once through resolutions to see to it atleast that the quacks who easily entered the Register maintained by the Board of Indian Medicine, brought about not by law but by an Administrative Order of the Government, did not use drugs and appliances pertaining to the scientific system of medicine, popularly known as Allopathic system. But the Government took no steps in this direction. To the extent the Medical Council had been persistently dinning into the ears of the Government about the danger of quacks to the same extent the Government have been deaf and have been actually encouraging quackery. The Government seem to be of the opinion that the rural folk who form more than 90% of the total population of the State and who are mainly responsible to fill up the exchequer of the Government did not need qualified medical-men to treat them when they are ill. The Government have decided to let loose quacks on the village population to serve as an eye wash for medical relief. If the Government persist in their policy unhampered, Government trained quacks would flood towns and cities also to the detriment of the health and welfare of the public. A Medical Council with an ex-officio President would not be able to raise his finger against the policy of the Government however dangerous it may be.

The Medical Register is a public document within the meaning of the Indian Evidence Act, to prove the qualifications of registered practitioners. There had been a large number of Government Medical Officers who possessed specialist qualifications which entitled them to aspire for specialist appointments under the Government. The President Dr. Kamath had been repeatedly bringing to the notice of the Government through the head of the Medical Department that the Government should not recognise an officer as a specialist unless his specialist qualifications were entered in the Medical Register. The Government had been to the same extent lukewarm. Yet, Dr. Kamath was able to persuade a few such specialists to get their specialist qualifications registered.

Even the very fundamental of the Medical Registration Act has been ignored by the Government in regard to the appointments of Medical Officers under them. There is atleast one Government pensioner so far detected who was in service at the time when the Provincial Medical Register was brought into existence in 1915 and whose name is not found in the Medical Register. When Dr. Kamath was an ordinary member of the Medical Council and later when he served as its President, he brought to the notice of the Surgeon-General that house appointments were made in the Government Hospitals with total disregard to the Medical Act as they were found working in the hospitals without being registered. Yet even this day Dr. Kamath's warning seems to have had little or no effect. It was the lot of Dr. Kamath to remind I. M. S. Officers including successive Surgeon-Generals to register themselves before they drew their salaries. A few I. M. S. officers did even protest as they said their names were in the British Register. They eventually had to yield not because of Dr. Kamath but for fear of not getting their pay. There was one Director of Public Health who could serve as such for several months without being in the Register, he was also eventually warned at the instance of Dr. Kamath. There has been instances of criminal violation of the Medical Act by those in authority in regard to the appointment of subsidised rural practitioners and honorary Medical Officers. A District Medical Officer of the Nilgiris District appointed a dresser retired from Malayan service as a subsidised practitioner. The latter applied to the Medical Council for registration. Dr. Kamath was then an ordinary member of the Council. When Col. Stott, the then ex-officio President of the Medical Council put his application before the Council, Dr. Kamath expressed his surprise that the D. M. O. Nilgiris allowed the applicant to serve as a rural practitioner under him and said, apart from entertaining the application of a dresser for registration, the D. M. O. should be asked to explain his conduct. Just at the fag end of the service of Dr. Kamath as President, he detected a case in the

Tanjore District where a layman had been serving as a honorary Medical Officer in a Government Hospital. Dr. Kamath instructed the Registrar to bring this criminal neglect on the part of the concerned authorities to the notice of the Government. Dr. Kamath now learns that no action has been taken by the Government. Evidently the Government could not condemn themselves.

The readers would be shocked to learn that the proceedings of the Medical Council had not been confirmed as required by law ever since the Medical Council came into existence in 1915 till 1944 when Dr. Kamath became its President. The matter was duly reported to the Government and the Government advised Dr. Kamath to get the proceedings confirmed with a retrospective effect.

Dr. Kamath was an active Watch Dog not only of the Medical Council as such but also of the interests of the members of the noble profession in and outside service. The Government did not want him to continue his services to the medical profession and indirectly to the general public. They got rid of him for his doggedness in defying illegal Government Orders in the matter of alleged imaginary irregularities in the 1946 Medical Council elections which Dr. Kamath did with the approval of the Council and on legal advice. Dr. Kamath will be failing in his duty if he does not express his deep feelings of gratitude to his colleagues in the Madras Medical Council who treated him as the eldest member of a happy joint family. The quantity and quality of work turned out by Dr. Kamath in the Council, is entirely due to the brotherly help and co-operation he had from the members of the Council. Though the majority of members of the Council were either Government medical officers in high position or Government nominated members, never did they make Dr. Kamath feel that they were outside the fold of the entire medical profession as such. Or else how could Dr. Kamath defy the illegal acts of omission and commission perpetrated by the Government?

THE MEDICAL PRACTITIONER IS NOT A BUSINESS THAT IS RUN FOR PRIVATE GAIN. ITS FUTURE EXISTENCE DEPENDS ENTIRELY ON ITS PATRON-SUBSCRIBERS. ITS SUBSTANCE WILL BE ITS SHOW TO DESERVE ITS USEFULNESS.

AFFAIRS OF THE MEDICAL PROFESSION ARE CONSIDERED TO BE OF LITTLE OR OF NO IMPORTANCE BY THE LAY PRESS. IT IS THEREFORE NECESSARY THAT THE MEMBERS OF THE MEDICAL PROFESSION SHOULD TREAT THE MEDICAL PRACTITIONER AS A FORUM TO VENTILATE THEIR GRIEVANCES.

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