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IN THE PRIVY COUNCIL
ON APPEAL FROM THE DISCIPLINARY COMMITTEE
CONSTITUTED UNDER SECTION 32
OF THE MEDICAL ACT 1956

BETWEEN

SHARANGDHAR PRASAD

Appellant

AND

THE GENERAL MEDICAL COUNCIL

Respondent

CASE FOR THE RESPONDENT COUNCIL

Record

1. This is an Appeal by the Appellant, Sharangdhar Prasad, from a determination by the Disciplinary Committee of the Respondent Council upon the 26th day of July 1974 that by reason of a finding of serious professional misconduct the name of the Appellant should be erased from the Register of Medical Practitioners and that for the protection of members of the public this registration should be suspended forthwith.

2. On the 24th, 25th and 26th days of July 1974 the Disciplinary Committee held an enquiry into the following charge against the Appellant:-

That being registered under the Medical Acts, between about September 3rd 1973 and about February 22nd 1974 in return for fees you issued prescriptions for drugs otherwise than in the course of bona-fide treatment and, in particular, you so issued the prescriptions set out in the schedule accompanying the letter sent to you by the General Medical Council on April 9th 1974.

And that in relation to the facts alleged you have been guilty of serious professional misconduct.

3. The schedule referred to above was produced at the said hearing. The entries thereon were proved and agreed.

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4. At the said enquiry the Appellant was represented by Mr. P. Baylis of Messrs. Hempsons, Solicitors to the Medical Defence Union. Mr. Richard Du Cann of Counsel instructed by Messrs. Waterhouse & Company, Solicitors to the Respondent Council, appeared in order to present the facts of the case.

5. On the 9th day of September 1974, Mr. Justice Swanwick and Mr. Justice Lawson, sitting as a Divisional Court of the Queen's Bench Division heard an application by the Appellant pursuant to Section 15 of the Medical Act 1969 that the suspension of the Appellant's registration might be terminated pending the hearing of the Appellant's Appeal on the grounds that the said suspension was neither necessary for the protection of members of the public nor in the best interests of the Appellant. The Application was dismissed.

6. Seven persons whose names appear on the said schedule and who had obtained by Dr. Prasad drugs of addiction or dependence were called as witnesses at the said enquiry. They are Malcolm John Lodge who is number 22, on the said schedule: Richard John Sorby who is number 2; Graham Gene Robinson who is number 27; Robert Owen Jones who is number 19; John Gabriel Murray who is number 25; Robert Joseph Donnelly who is number 7; Phillip Anthony Robichaux who is number 24.

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7. Six of those persons (that is all save Sorby) had prior to or within the period covered by the charge been obtaining treatment for drug addiction from the Addiction Unit at All Saint's Hospital Birmingham. Their names are included in a schedule of 16 persons all of whom had been similarly treated at the said addiction centre. All these 16 names appear in the schedule of 40 names of persons receiving drugs of addiction or dependence from Dr. Prasad. The contents of this schedule were admitted and agreed at the said hearing.

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8. The witness Lodge attended the enquiry under escort as he was then serving a sentence of 6 months detention for breach of probation and a suspended sentence for forging prescriptions to obtain the scheduled drug. He was receiving treatment at All Saint's Addiction Unit for addiction to that drug when he went to Dr. Prasad's surgery as a private patient to obtain drugs. He gave a false name

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Lande, and a false address. He was asked by the doctor what he was there for. He replied he wanted a prescription. He was asked: "What prescription do you want?". He replied: "For diconal". The doctor "stethoscoped" his chest and back. He made no other or further examination. He asked no questions about Lodge's own doctor or medical history. He wrote out a prescription for 20 Tablets of Diconal and 20 Fortagesic. He said that would be £3. Lodge put a £5 note on the doctors desk, the doctor wrote out another prescription which he gave to Lodge for 40 Diconal and 40 Fortagesic. The doctor kept the £5 note. The doctor told him not to come back before the next week, not to take the prescription to Boots in New Street Birmingham and to keep "it" to himself. Four days later Lodge returned to get a further prescription. The doctor told him he would not give him another until the following week. He said he's heard that Lodge was getting prescriptions from the Addiction Unit. Lodge told him the treatment he was receiving there. Next week on 29th January 1974 the doctor gave him a further prescription for 10 tablets of diconal and asked for and was paid £5. There was no examination or taking of a medical history. On the 2nd and 11th of February the doctor gave further prescriptions to Lodge for diconal in his correct name in return for painting work done by Lodge at the doctor's house. On the week-end of 16/17 February the doctor gave him 20 diconal tablets after Lodge had done further work for him. Lodge was crushing the tablets, mixing them with water and injecting them intravenously in his arms, which, as a result, were ulcerated. Lodge was sentenced to six months detention in March 1974. Since then he had no contact with any of the other persons visiting the doctor.

9. In cross-examination Lodge denied that he had told the doctor that he was suffering from pain or that he had said that anything was wrong with him. He denied that he's told the doctor that in the past diconal had relieved pain in his back. He said the work at the doctor's house was done for prescriptions and not for money though he had once been given a small amount of money by the doctor's wife. He agreed that before the doctor gave him the diconal tablets he had got worried because the chemist shops were soon to shut and so had nagged the doctor.

10. Sorby similarly attended under escort from Winson Green prison where he was serving nine months imprisonment for theft. He was sentenced in April 1974 since which time he had seen none of the other witnesses who gave evidence before the committee. He had gone to the doctor's surgery first in August 1973. He gave the false name of Bremner and a false address. He asked the doctor for the scheduled drugs Durophet and Nembutal and on payment of £3 received a prescription for 20 tablets of each. He was asked by the doctor where he had been getting drugs from previously. He replied, from friends and off the Black market. He was asked if he was hooked on drugs. He replied that he was, He was not asked for a medical history. Thereafter he went on a number of occasions up to January 1974 and obtained further prescriptions, paying £3 for those covering 20 tablets and £5 for those covering 40 tablets. He was never examined by the doctor. 1/30
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11. In cross-examination he agreed that he might have begun going to the doctor in October 1973. He agreed he may have given the doctor a false National Health Insurance number. He denied that he said he found it difficult to sleep or to concentrate. He denied he had been weighed or examined at all. He agreed that his recollection of events could be clouded by the drugs he was taking at the relevant period. He had not been to the doctor between the end of October 1973 and 5th January 1974 because he was getting supplies of drugs from friends who had got them from the doctor. He agreed that on his last visit the doctor had also prescribed some penicillin for him for a sore throat which he had examined. 1/35
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12. Robinson attended under escort from Shrewsbury prison. He had been sentenced on 11th January 1974 to three years imprisonment for aggravated robbery and other offences. He went to the doctors surgery on 5 or 6 occasions. On each occasion he obtained a prescription for Durophet and tuinal, drugs he chose. He was not asked to justify that choice. He was asked no questions about his own medical history, but he was asked if he had attended the All Saint's addiction Clinic. He said that he had. He was not examined. He paid £2 and later £3 for prescriptions for 20 tablets, and £5 for prescriptions for 40 tablets. The doctor made an entry on a document on each visit. He had been discharged as cured from heroin addiction by the Clinic. in October 1973. Since being 1/39
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sentenced apart from one letter he had not been in contact with any person who had been to the doctors surgery.

13. In cross-examination he said that if he could get his hands on them he would take up to 15 durophet tablets and 6 tuinal a day. The amounts he got from the doctor were trifling. He agreed the doctor would stipulate when he could go back for a new prescription, and that if he went back earlier the doctor would date the prescription with the day on which the supply of drugs on the former prescription if taken in accordance with that prescription would run out. He denied that he had told the doctor he felt sleepy during the day and unable to concentrate on his work. He was unemployed at the relevant time. He said that, in effect, he bought the drugs like buying sweets in a sweet shop. He thought the doctor had weighed him. He had not realised that the strength of the durophet tablets had been reduced on later prescriptions until the prescription had been dispensed. When he mentioned it to the doctor, the doctor had said: "Look, I'm trying to look after you". 1/43
14. Jones said that he had been going to the doctor's surgery weekly and getting dexedrine and tuinal as a private patient since June or July 1973. He had never been asked for a medical history. He had never been given a physical examination. He had never been asked for any reason as to why he wanted these drugs. He paid £2 for each prescription. On 1st November 1973 he had suffered an overdose of drugs obtained from the doctor. The doctor told him not to "change" the prescriptions in Birmingham. 1/51
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15. In cross-examination he said he was sure he had been to the doctors surgery before the date shown on the first recovered prescription: i.e. 4th October 1973. He said he told the doctor he had a family doctor who would not give him anything at all. He denied he had been weighed. He said that on his first visits the doctor kept no records but that later on he did. He agreed that on one occasion he had falsely represented to the doctor that he had lost the tablets obtained on one prescription in order to obtain another. At the end of 1973 the doctor insisted that he went back to the surgery to get a new prescription exactly on the day 1/55
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the old one ran out. He had been treated at All Saints up to November 1972. He had stopped going as the staff there refused to give further treatment. Dr. Prasad said he would give him a letter to attend All Saints but he never did so. He denied refusing to go back there. He denied he told the doctor he was in pain. The change from Dexedrine to diconal was at his(Jones)request. After the last visit on 7th February 1974 he had stopped taking drugs and had worked ever since. In re-examination he described the records the doctor started keeping, and explained that he sometimes got a prescription with 40 tablets instead of 20 if he was able to pay £5.

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16. Murray said that until the late spring of 1973 he had been treated at All Saints from whom he was receiving Drinamyl, Tuinal and Nembutal. He had been struck off their list for drug abuse and since then had been obtaining scheduled drugs on the Black Market. He started going to Dr. Prasad in September or October 1973. After giving his name and address he asked for Durophet and Tuinal saying, "20 and 20". The doctor asked him why. He told Dr. Prasad he had been a previous addict at All Saints but All Saints would not treat him and he wanted the Doctor to do so. The doctor wrote out a prescription for 20 of each and said that would be £3. He was given no examination. No medical history was taken. He was not asked about his own doctor. When he was given prescriptions for 40 tablets he paid £5. He got the prescription dispensed at different chemists because it was common-sense to do so and because the doctor told him to.

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17. In cross-examination he said that he might have told Dr. Prasad on a later visit that he was feeling depressed and could not sleep properly. He denied he had been weighed. He agreed the doctor kept some records. He identified his signature on a record card. He agreed the sedative had been changed at his request. He had no idea why he had also been given Solprin on one prescription. He agreed that on his last visit, 15th February 1974, the doctor had prescribed a vitamin preparation, Becosyn, to help cut down the drugs, and the doctor said that he was going to refer him to All Saints. The witness told Dr. Prasad that it was impossible because All Saints did not want to know him. He agreed that on some date after the 15th February a notice had been put outside the

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doctor's surgery to the effect that no prescriptions would in future be issued for amphetamines or drugs of that sort.

18. In re-examination the witness said that the pen with which he signed the record card was different from that with which the words above his signature, "I certify that I am not getting drugs from anywhere else" had been written. He said: "They (those words) may have been signed there (when I signed) but I do not think that they were".

19. Robichaux said that he had been in Stafford prison from the 7th February to the 24th May 1974 serving a six months sentence for forging prescriptions to obtain drugs. For some time prior to that and in 1973 he had been treated at All

Saints Addiction Unit. When he went to Dr. Prasad's surgery as a private patient he had given the false name of Miller and a false address. He asked for "something to keep me awake

at work during the day and to put me to sleep at night". He was asked for no further justification before being given a prescription for 20 tablets of tuinal for which he paid £3. He was not examined. He was not asked for a medical history. He gave the name of a doctor in Manchester as his family doctor. He made about eight visits and received a prescription each time. If 40 tablets were prescribed he paid £4. He was told not to use the same chemist each time. He agreed he signed Dr. Prasad's record card in the name "H. Miller". He said words "I Harry Miller, hereby certify that I am receiving treatment..... and not from anyone else," on that card above his signature were in a different pen from that used by him and that the words were not on the document when he signed it.

20. In cross-examination he said he had been receiving treatment from All Saints while getting prescriptions from Dr. Prasad. He said there had been no "discussion" with Dr. Prasad apart from his making the request for drugs, the doctor asking "what would you like", and his replying "I don't know". He agreed he lied to the doctor about his name address, the type of accommodation he then occupied and his family doctor.

21. Donnelly said he went to Dr. Prasad's surgery about four

times to get amphetamines and barbituates thinking he would not get them from his own doctor. On the first visit he was asked what he wanted, he replied amphetamines and tuinal. He produced £5 and was given a prescription for 40 Durophet and 40 Nembutal. He was not asked any questions about his medical history. He was not examined. The doctor told him not to take the prescriptions to the City Centre. The amounts on later prescriptions were cut down he was told because of the number of people going to the surgery. 1/73

22. In cross-examination he denied there had been any conversation between himself and the doctor about his feeling depressed and finding it difficult to work. He said that on each visit he spent about four or five minutes or even less in the surgery 1/74
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23. Detective Sergeant Jesse Brown of the West Midlands police Birmingham said that he had examined many of the prescriptions issued by Dr. Prasad authorising the dispensing of drugs controlled under the Misuse of Drugs Act 1971 and retained by chemists under that Act. The vast majority of the persons in whose names the prescriptions were issued were known to himself and other members of the Drug Squad. A number of the addresses given were non-existent or false. He gave examples of both classes. On the 6th December 1973 he saw Dr. Prasad and warned him that a number of persons to whom he was giving prescriptions for controlled drugs were giving him false names and addresses, and that a number were known to have been convicted of drug offences, or to be connected with the abuse of drugs, and that some of the young people had been taken into hospital suffering with overdoses of the drugs that he had apparently prescribed. Dr. Prasad replied that he did not consider that he could be held responsible for what these young people did once they left his surgery, nor for what they did with the drugs that he prescribed. However, he said he would bear in mind what the Sergeant had told him. 1/47
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24. In cross-examination he agreed that these young people tended to move around a great deal, that the vast majority of the addresses existed, and that it was common for them to give false names and addresses. 1/50

Record

25. Henry Bryan Spear, a deputy Chief Inspector in the Home Office Drugs Branch said that he and others had collected from a limited number of chemists in the Birmingham area the prescriptions issued by Dr. Prasad and produced to the Committee on which the main schedule was based. On the 19th February 1974 he had interviewed Dr. Prasad. He had shown the doctor the prescriptions collected up to that time. The doctor agreed he had issued prescriptions for controlled drugs to about 40 persons, they were all private patients none of whom were on his National Health list. The doctor said he thoroughly checked the patients' stories, examined them and as far as possible tried to contact their previous doctor. He was unable to give any details of such doctors "immediately". He said he had records relating to those patients, they were at home, as was his drugs register, and it would not be possible for the witness to see the records next week. He promised to send the witness a list of the names of such patients (This was never sent.) The doctor said he had prescribed controlled drugs for many reasons: the patients were depressed, or wanted to lose weight, or could not sleep. He said he did not know if any were addicted to drugs: he had not notified any. He said he did not know if any were being treated at All Saints: he had tried to persuade some to go there but they had refused. He said he had spoken to the staff at All Saints, the telephone operator and some nurses. He denied that patients came to him from all over Birmingham for these drugs and that he told patients to have prescriptions dispensed at different chemists. He said he did not visit any of the patients in their own homes. He said he was not responsible for what happened to the prescriptions when they left the surgery. Dr. Prasad said; "What can I do? You don't understand it is very much like sitting in an open market. I am a stranger in this country. It is difficult for me to turn people away without insulting them and in turn getting a stream of abuse such as "You black bastard bugger"".

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26. On 26th April Dr. Prasad was seen again by the witness. The doctor admitted he had still not sent the list of names of patients. He said he had been in touch with the Medical Defence Union. He said he'd stopped prescribing drugs of this class on 20th February, save for a few private patients who were "not the same types". Dr. Prasad still refused to

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Record

produce his drugs register. He admitted supplying Diconal tablets to Lodge and claimed to have a record of the supply, but said he could not tell the witness the name of the chemist from whom he had obtained them. 1/83

27. In cross-examination he agreed that having regard to the intervals at which the prescriptions were issued the amounts of drugs involved were "not really excessive quantities". He agreed that young persons could be difficult when trying to obtain prescriptions for drugs. He agreed that so far as he had been able to judge Dr. Prasad had stopped prescribing drugs on the 20th February 1974 1/84

28. A bundle of agreed correspondence was produced including letters dated 18th May and 20th May 1974 sent by Dr. Prasad to Mr. Butcher of Messrs. Hempsons and forwarded by them to the General Medical Council. App 13-22

29. Dr. Prasad gave evidence. He said he was 40 years of age, had qualified at Patna University in 1958, came to the United Kingdom in 1965, and after various hospital appointments had entered general practice in Birmingham in December 1968. His National Health list when first appointed had been 1000 persons, it was now more than 2,500. He had at the relevant time about 40-50 private patients, and at the time of giving evidence about 40 private patients. He said he charged as little as 50p for a visit made by such patients if they could not afford more, and up to £5 depending on the time and effort he put in. He agreed that some of his patients on the schedule were addicted to drugs, but denied that they were drawn from a wider area than his National Health Service practice. He denied telling any patients not to go to any chemists in Birmingham, but had advised patients not to embarrass the late night chemists in the city centre by going late unless it was urgent. He denied telling any patient not to mention his name as a source of controlled drugs. He said: "Never has it happened in my life that I have taken money from some person without examining him" and that fees always depended on the time taken with the patient. He gave the names of doctors he said had been given to him by persons whose names appear on the schedule whom he had contacted. 1/89
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Record

30. He made the record sheets, already produced in evidence, at the time of patients visits. He produced a record book into which he said he entered detailed clinical particulars of patients examination and treatment within 24-36 hours of his examination. 1/93-4
App. 26-77
31. The witness Lodge had been a patient of his. He had no idea Lodge had been injecting Diconal intravenously. He had examined him thoroughly. He had pain in his back and cramp in his thighs. He had prescribed Diconal and other drugs in the course of bona-fide treatment. He denied increasing the number of tablets for an increased fee and of learning that Lodge was being treated at All Saints. He said that he had paid Lodge cash for the work he had done at his house, that he had given him diconal tablets only because Lodge claimed to be in pain. 1/94
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32. He said Sorby came to him as Bremner suffering from a bad type of depression and because he could not get to sleep. He said the treatment he gave him was to help him with both complaints. 1/97
33. He said he examined Murray and had a long discussion with him, that Murray was depressed, could not sleep and wanted to lose weight. He had bona-fide prescribed Durophet and Nembutal. He said Murray refused to follow his advice to go to the Addiction Clinic. 1/100
1/102
34. He said Jones told him he could not sleep, had no concentration and was depressed. He had weighed him and given him bona-fide treatment. In January 1974 he had prescribed Diconal to relieve pain in the back and had finally stopped treatment because Jones would not accept advice to go to the Addiction Clinic. 1/104
35. He said he had examined Robichaux (Miller) who complained of being depressed, unable to sleep and wanted to lose weight. He diagnosed emotional distress and obesity, and had therefore prescribed durophet and tuinal. He believed the information given to him by Robichaux and had no idea he was dependent on drugs or being treated at All Saints. 1/114
1/116
36. He had written the letters in the agreed correspondence

Record

after reviewing all the cases in the schedule and after consulting the records and the book he had produced. He had only tried to "help them with proper intent with regard to mind and body". He said the variation in clinical dosage depended on his proper clinical judgement, even if events now showed that he might have been wrong in treating a number of patients as he had. He confirmed that with the exception of Miss O'Shaughnessy (number 26 on the Schedule) he had stopped prescribing controlled drugs of this class on 20th February 1974.

1/117

37. In cross-examination he said that there was no book preceding the one produced. In the book there was no new patient entered after 26th November 1973, but that was only because he had not had enough time to do so. The book had not been fabricated to mislead the Committee. He had not altered any of the record cards, nor added to them in any way. The reason for some of the entries, although bearing the same date, being in different inks was because he had so many pens on his desk. In particular, no alterations or additions had been made to the record card of the patient, Delia Hogan. There was no significance in his having record cards for private patients to whom controlled drugs had not been supplied without corresponding entries in the book. He agreed that some loose pieces of paper produced with the record cards showed amounts charged by him to patients. He said that all his diagnoses leading to prescribing of controlled drugs were genuinely made. He said that the reduction in concentration of durophet prescribed some time in December 1973 had nothing to do with the visit of Detective Sergeant Brown, but was due to the requirements of his patients.

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App.78-114

1/121

App. 1/131

App. 70-76

1/136-7

38. He produced a drugs register showing the supply of diconal tablets to Lodge, which had been made up from notes made earlier but after Mr. Spear had interviewed him. He agreed that special care was necessary when questioning and examining new young patients, particularly if they asked for controlled drugs or described symptoms which might lead to prescribing controlled drugs. He had no records with him of the financial benefit derived from prescribing controlled drugs. He denied that any of the patients had seen him more times than shown on the schedule and his records, or that

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any had been allowed to choose drugs for themselves.

39. Mrs. Beryl Hooper who had worked as Dr. Prasad's receptionist at the relevant time said the doctor would see up to five private patients a week each of whom would stay in the doctor's surgery between 8-20 minutes. She said that the private patients were in the mid-twenties age group, none were elderly and none brought children. She did not keep the records for private patients.

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40. Mrs. Prasad described the work done by Lodge painting at the house. She said she had given him 15/- on one occasion and that her husband told her he had given Lodge £7 on another occasion.

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41. Phillip William Shakespeare said he had received the prescriptions set out on the schedule (number 31) having consulted Dr. Prasad as a private patient with a genuine weight problem and depression. He had weighed 16 stone. He had lost half a stone and had stopped going to Dr. Prasad when he felt well in himself.

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App. 8

42. It was submitted on behalf of the Appellant that the greatest possible caution ought to be exercised in looking at the evidence given by the seven drug addicts, and that where there was conflict between them and Dr. Prasad, the doctor's evidence was to be preferred; that the records and book produced by Dr. Prasad had all the hall marks of genuine and contemporaneous records and that however unwisely, ineptly or with whatever lack of clinical judgement Dr. Prasad was treating his private patients the prescribing was in the course of bona-fide treatment.

43. It was submitted on behalf of the Respondent that the records and book could not be relied on as genuine, contemporaneous and unaltered documents; that the evidence given by the seven addicts could be relied on and was corroborated in material particulars; and that the evidence showed a continuous, persistent or flagrant disregard of proper medical enquiry and treatment.

44. The committee found the facts alleged in the charge proved.

45. After hearing Mr. Baylis as to the Appellant's mitigation and Mr. DuCann as to a previous complaint, the committee determined that the Appellant had been guilty of serious professional misconduct, directed that his name be erased from the Register and further determined that it was necessary for the protection of the public that his registration in the Register be suspended forthwith and accordingly so ordered.

46. The Respondent Council therefore humbly submits that this Appeal should be dismissed for the following among other reasons.

REASONS

1. Because the facts alleged were proved to the satisfaction of the Committee, and the Committee were entitled to find the said facts proved.
2. Because the Committee were entitled properly to hold that in relation to the facts proved against the Appellant he had been guilty of serious professional misconduct.
3. Because the finding of the Committee that the Appellant had been guilty of serious professional misconduct was a proper finding.
4. Because in the proper exercise of its discretion the Committee was entitled to direct that the Appellant's name be erased from the Register and his registration should be suspended forthwith.
5. Because the aforesaid directions were proper directions.

Queen Elizabeth Buildings
Temple, E.C.4.

Richard Du Cann
22nd October, 1974

IN THE PRIVY COUNCIL
ON APPEAL FROM THE DISCIPLINARY
COMMITTEE
CONSTITUTED UNDER SECTION 32
OF THE MEDICAL ACTS 1956

SHARANGDHAR PRASAD

Appellant

and

THE GENERAL MEDICAL COUNCIL

Respondent

C A S E
FOR THE RESPONDENT

Mr. Richard Du Cann